

1 A bill to be entitled
2 An act relating to certificates of title for vessels;
3 creating s. 328.001, F.S.; providing a short title;
4 creating s. 328.0015, F.S.; providing definitions;
5 amending s. 328.01, F.S.; revising requirements for
6 application for, and information to be included in, a
7 certificate of title for a vessel; creating s.
8 328.015, F.S.; requiring the Department of Highway
9 Safety and Motor Vehicles to retain certain
10 information relating to ownership and titling of
11 vessels; requiring the department to furnish certain
12 information upon request; creating s. 328.02, F.S.;
13 providing that the law of the state in which a vessel
14 is titled governs all issues relating to a certificate
15 of title; specifying when a vessel becomes covered by
16 such certificate; amending s. 328.03, F.S.; requiring
17 a vessel owner to deliver an application for
18 certificate of title to the department by a specified
19 time; revising circumstances under which a vessel must
20 be titled by this state; providing requirements for
21 issuing, transferring, or renewing the number of an
22 undocumented vessel issued under certain federal
23 provisions; deleting provisions relating to operation,
24 use, or storage of a vessel; deleting provisions
25 relating to selling, assigning, or transferring a

26 vessel; specifying that a certificate of title is
27 prima facie evidence of the accuracy of the
28 information in the record that constitutes the
29 certificate; creating s. 328.04, F.S.; providing
30 requirements for the contents of a certificate of
31 title; creating s. 328.045, F.S.; providing
32 responsibilities of an owner and insurer of a hull-
33 damaged vessel when transferring an ownership interest
34 in the vessel; requiring the department to create a
35 new certificate indicating such damage; providing
36 civil penalties; creating s. 328.055, F.S.; requiring
37 the department to maintain certain information in its
38 files; creating s. 328.06, F.S.; providing
39 responsibilities of the department when creating a
40 certificate of title; creating s. 328.065, F.S.;
41 specifying effect of possession of a certificate of
42 title; providing construction; amending s. 328.09,
43 F.S.; providing duties of the department relating to
44 creation, issuance, refusal to issue, or cancellation
45 of a certificate of title; providing for a hearing;
46 creating s. 328.101, F.S.; specifying that a
47 certificate of title and certain other records are
48 effective despite missing or incorrect information;
49 amending s. 328.11, F.S.; providing requirements for
50 obtaining a duplicate certificate of title; creating

51 s. 328.12, F.S.; providing requirements for
52 determination and perfection of a security interest in
53 a vessel; providing applicability; creating s.
54 328.125, F.S.; providing requirements for the delivery
55 of a statement of termination of a security interest;
56 providing duties of the department; providing
57 liability for noncompliance; creating s. 328.14, F.S.;
58 providing for the rights of a purchaser of a vessel
59 who is not a secured party; creating s. 328.145, F.S.;
60 providing for the rights of a secured party; amending
61 s. 328.15, F.S.; deleting certain provisions relating
62 to notice of a lien; providing for future repeal of
63 certain provisions; amending ss. 328.16 and 328.165,
64 F.S.; conforming provisions to changes made by the
65 act; creating s. 328.215, F.S.; specifying
66 circumstances under which the department may create a
67 new certificate of title after receipt of an
68 application for a transfer of ownership or termination
69 of a security interest unaccompanied by a certificate
70 of title; authorizing the department to indicate
71 certain information on the new certificate;
72 authorizing the department to require a bond,
73 indemnity, or other security; providing for the
74 release of such bond, indemnity, or other security;
75 providing that the department is not liable for

76 creating a certificate of title based on erroneous or
77 fraudulent information; providing penalties; creating
78 s. 328.22, F.S.; providing requirements for the
79 transfer of ownership in a vessel; providing effect of
80 noncompliance; creating s. 328.23, F.S.; providing a
81 definition; providing duties of the department upon
82 receipt of a secured party's transfer statement;
83 providing construction; creating s. 328.24, F.S.;
84 providing a definition; providing requirements for a
85 transfer of ownership by operation of law; providing
86 duties of the department; providing applicability;
87 creating s. 328.25, F.S.; providing that the
88 principles and law of equity supplement the provisions
89 of the act; creating s. 328.41, F.S.; authorizing the
90 department to adopt rules to implement vessel
91 registration provisions; amending ss. 409.2575,
92 705.103, and 721.08, F.S.; conforming provisions and
93 cross-references to changes made by the act; providing
94 construction and applicability regarding transactions,
95 certificates of title, and records entered into or
96 created, actions or proceedings commenced, and
97 security interests perfected before the effective date
98 of the act; providing applicability; providing an
99 effective date.

100

101 Be It Enacted by the Legislature of the State of Florida:

102

103 Section 1. Section 328.001, Florida Statutes, is created
104 to read:

105 328.001 Short title.—This part may be cited as the
106 "Uniform Certificate of Title for Vessels Act."

107 Section 2. Section 328.0015, Florida Statutes, is created
108 to read:

109 328.0015 Definitions.—

110 (1) As used in this part, the term:

111 (a) "Barge" means a vessel that is not self-propelled or
112 fitted for propulsion by sail, paddle, oar, or similar device.

113 (b) "Builder's certificate" means a certificate of the
114 facts of build of a vessel described in 46 C.F.R. s. 67.99.

115 (c) "Buyer" means a person who buys or contracts to buy a
116 vessel.

117 (d) "Cancel," with respect to a certificate of title,
118 means to make the certificate ineffective.

119 (e) "Certificate of origin" means a record created by a
120 manufacturer or importer as the manufacturer's or importer's
121 proof of identity of a vessel. The term includes a
122 manufacturer's certificate or statement of origin and an
123 importer's certificate or statement of origin. The term does not
124 include a builder's certificate.

125 (f) "Certificate of title" means a record, created by the

126 department or by a governmental agency of another jurisdiction
127 under the law of that jurisdiction, that is designated as a
128 certificate of title by the department or agency and is evidence
129 of ownership of a vessel.

130 (g) "Dealer" means a person, including a manufacturer, in
131 the business of selling vessels.

132 (h) "Department" means the Department of Highway Safety
133 and Motor Vehicles.

134 (i) "Documented vessel" means a vessel covered by a
135 certificate of documentation issued pursuant to 46 U.S.C. s.
136 12105. The term does not include a foreign-documented vessel.

137 (j) "Electronic" means relating to technology having
138 electrical, digital, magnetic, wireless, optical,
139 electromagnetic, or similar capabilities.

140 (k) "Electronic certificate of title" means a certificate
141 of title consisting of information that is stored solely in an
142 electronic medium and is retrievable in perceivable form.

143 (l) "Foreign-documented vessel" means a vessel the
144 ownership of which is recorded in a registry maintained by a
145 country other than the United States which identifies each
146 person who has an ownership interest in a vessel and includes a
147 unique alphanumeric designation for the vessel.

148 (m) "Good faith" means honesty in fact and the observance
149 of reasonable commercial standards of fair dealing.

150 (n) "Hull damaged" means compromised with respect to the

151 integrity of a vessel's hull by a collision, allision, lightning
152 strike, fire, explosion, running aground, or similar occurrence,
153 or the sinking of a vessel in a manner that creates a
154 significant risk to the integrity of the vessel's hull.

155 (o) "Hull identification number" means the alphanumeric
156 designation assigned to a vessel pursuant to 33 C.F.R. part 181.

157 (p) "Lien creditor," with respect to a vessel, means:

158 1. A creditor that has acquired a lien on the vessel by
159 attachment, levy, or the like;

160 2. An assignee for benefit of creditors from the time of
161 assignment;

162 3. A trustee in bankruptcy from the date of the filing of
163 the petition; or

164 4. A receiver in equity from the time of appointment.

165 (q) "Owner" means a person who has legal title to a
166 vessel.

167 (r) "Owner of record" means the owner indicated in the
168 files of the department or, if the files indicate more than one
169 owner, the one first indicated.

170 (s) "Person" means an individual, corporation, business
171 trust, estate, trust, statutory trust, partnership, limited
172 liability company, association, joint venture, public
173 corporation, government or governmental subdivision, agency, or
174 instrumentality, or any other legal or commercial entity.

175 (t) "Purchase" means to take by sale, lease, mortgage,

176 pledge, consensual lien, security interest, gift, or any other
177 voluntary transaction that creates an interest in a vessel.

178 (u) "Purchaser" means a person who takes by purchase.

179 (v) "Record" means information that is inscribed on a
180 tangible medium or that is stored in an electronic or other
181 medium and is retrievable in perceivable form.

182 (w) "Secured party," with respect to a vessel, means a
183 person:

184 1. In whose favor a security interest is created or
185 provided for under a security agreement, regardless of whether
186 any obligation to be secured is outstanding;

187 2. Who is a consignor as defined under chapter 679; or

188 3. Who holds a security interest arising under s. 672.401,
189 s. 672.505, s. 672.711(3), or s. 680.508(5).

190 (x) "Secured party of record" means the secured party
191 whose name is indicated as the name of the secured party in the
192 files of the department or, if the files indicate more than one
193 secured party, the one first indicated.

194 (y) "Security interest" means an interest in a vessel
195 which secures payment or performance of an obligation if the
196 interest is created by contract or arises under s. 672.401, s.
197 672.505, s. 672.711(3), or s. 680.508(5). The term includes any
198 interest of a consignor in a vessel in a transaction that is
199 subject to chapter 679. The term does not include the special
200 property interest of a buyer of a vessel on identification of

201 that vessel to a contract for sale under s. 672.501, but a buyer
202 also may acquire a security interest by complying with chapter
203 679. Except as otherwise provided in s. 672.505, the right of a
204 seller or lessor of a vessel under chapter 672 or chapter 680 to
205 retain or acquire possession of the vessel is not a security
206 interest, but a seller or lessor also may acquire a security
207 interest by complying with chapter 679. The retention or
208 reservation of title by a seller of a vessel notwithstanding
209 shipment or delivery to the buyer under s. 672.401 is limited in
210 effect to a reservation of a security interest. Whether a
211 transaction in the form of a lease creates a security interest
212 is determined as provided in part II of chapter 671.

213 (z) "Sign" means, with present intent to authenticate or
214 adopt a record, to:

- 215 1. Make or adopt a tangible symbol; or
216 2. Attach to or logically associate with the record an
217 electronic symbol, sound, or process.

218 (aa) "State" means a state of the United States, the
219 District of Columbia, Puerto Rico, the United States Virgin
220 Islands, or any territory or insular possession subject to the
221 jurisdiction of the United States.

222 (bb) "State of principal use" means the state on the
223 waters of which a vessel is or will be used, operated,
224 navigated, or employed more than on the waters of any other
225 state during a calendar year.

226 (cc) "Title brand" means a designation of previous damage,
227 use, or condition that must be indicated on a certificate of
228 title.

229 (dd) "Transfer of ownership" means a voluntary or
230 involuntary conveyance of an interest in a vessel.

231 (ee) "Vessel" means a watercraft used or capable of being
232 used as a means of transportation on water, except:

233 1. A seaplane;

234 2. An amphibious vehicle for which a certificate of title
235 is issued pursuant to chapter 319 or a similar statute of
236 another state;

237 3. Watercraft less than 16 feet in length and propelled
238 solely by sail, paddle, oar, or an engine of less than 10
239 horsepower;

240 4. Watercraft that operate only on a permanently fixed,
241 manufactured course and the movement of which is restricted to
242 or guided by means of a mechanical device to which the
243 watercraft is attached or by which the watercraft is controlled;

244 5. A stationary floating structure that:

245 a. Does not have and is not designed to have a mode of
246 propulsion of its own;

247 b. Is dependent for utilities upon a continuous utility
248 hookup to a source originating on shore; and

249 c. Has a permanent, continuous hookup to a shoreside
250 sewage system;

251 6. Watercraft owned by the United States, a state, or a
252 foreign government or a political subdivision of any of them;
253 and

254 7. Watercraft used solely as a lifeboat on another
255 watercraft.

256 (ff) "Vessel number" means the alphanumeric designation
257 for a vessel issued pursuant to 46 U.S.C. s. 12301.

258 (gg) "Written certificate of title" means a certificate of
259 title consisting of information inscribed on a tangible medium.

260 (2) The following definitions and terms also apply to this
261 part:

262 (a) "Agreement" as defined in s. 671.201(3).

263 (b) "Buyer in ordinary course of business" as defined in
264 s. 671.201(9).

265 (c) "Conspicuous" as defined in s. 671.201(10).

266 (d) "Consumer goods" as defined in s. 679.1021(1)(w).

267 (e) "Debtor" as defined in s. 679.1021(1)(bb).

268 (f) "Knowledge" as defined in s. 671.209.

269 (g) "Lease" as defined in s. 680.1031(1)(j).

270 (h) "Lessor" as defined in 680.1031(1)(p).

271 (i) "Notice" as defined s. 671.209.

272 (j) "Representative" as defined in s. 671.201(36).

273 (k) "Sale" as defined in s. 672.106(1).

274 (l) "Security agreement" as defined in s.

275 679.1021(1)(uuu).

276 (m) "Seller" as defined in s. 672.103(1)(d).

277 (n) "Send" as defined in s. 671.201(39).

278 (o) "Value" as defined in s. 671.211.

279 Section 3. Section 328.01, Florida Statutes, is amended to
280 read:

281 328.01 Application for certificate of title.—

282 ~~(1)(a)~~ The owner of a vessel which is required to be
283 titled shall apply to the county tax collector for a certificate
284 of title. Except as otherwise provided in ss. 328.045, 328.11,
285 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
286 a certificate of title.

287 (2) An application for a certificate of title must be
288 signed by the applicant and contain:

289 (a) The applicant's name, the street address of the
290 applicant's principal residence, and, if different, the
291 applicant's mailing address;

292 (b) The name and mailing address of each other owner of
293 the vessel;

294 (c) The hull identification number for the vessel or, if
295 none, an application for the issuance of a hull identification
296 number for the vessel;

297 (d) The vessel number for the vessel or, if none issued by
298 the department, an application for a vessel number;

299 (e) A description of the vessel as required by the
300 department, which must include:

- 301 1. The official number for the vessel, if any, assigned by
 302 the United States Coast Guard;
- 303 2. The name of the manufacturer, builder, or maker;
- 304 3. The model year or the year in which the manufacture or
 305 build of the vessel was completed;
- 306 4. The overall length of the vessel;
- 307 5. The vessel type;
- 308 6. The hull material;
- 309 7. The propulsion type;
- 310 8. The engine drive type, if any; and
- 311 9. The fuel type, if any;
- 312 (f) An indication of all security interests in the vessel
 313 known to the applicant and the name and mailing address of each
 314 secured party;
- 315 (g) A statement that the vessel is not a documented vessel
 316 or a foreign-documented vessel;
- 317 (h) Any title brand known to the applicant and, if known,
 318 the jurisdiction under whose law the title brand was created;
- 319 (i) If the applicant knows that the vessel is hull
 320 damaged, a statement that the vessel is hull damaged;
- 321 (j) If the application is made in connection with a
 322 transfer of ownership, the transferor's name, street address,
 323 and, if different, mailing address, the sales price, if any, and
 324 the date of the transfer; and
- 325 (k) If the vessel was previously registered or titled in

326 another jurisdiction, a statement identifying each jurisdiction
327 known to the applicant in which the vessel was registered or
328 titled.

329 (3) In addition to the information required by subsection
330 (2), an application for a certificate of title may contain an
331 electronic communication address of the owner, transferor, or
332 secured party.

333 (4) Except as otherwise provided in s. 328.11, s. 328.215,
334 s. 328.23, or s. 328.24, an application for a certificate of
335 title must be accompanied by:

336 (a) A certificate of title signed by the owner shown on
337 the certificate and which:

338 1. Identifies the applicant as the owner of the vessel; or
339 2. Is accompanied by a record that identifies the
340 applicant as the owner; or

341 (b) If there is no certificate of title:

342 1. If the vessel was a documented vessel, a record issued
343 by the United States Coast Guard which shows the vessel is no
344 longer a documented vessel and identifies the applicant as the
345 owner;

346 2. If the vessel was a foreign-documented vessel, a record
347 issued by the foreign country which shows the vessel is no
348 longer a foreign-documented vessel and identifies the applicant
349 as the owner; or

350 3. In all other cases, a certificate of origin, bill of

351 sale, or other record that to the satisfaction of the department
352 identifies the applicant as the owner.

353 (5) A record submitted in connection with an application
354 is part of the application. The department shall maintain the
355 record in its files.

356 (6) The department may require that an application for a
357 certificate of title be accompanied by payment or evidence of
358 payment of all fees and taxes payable by the applicant under the
359 laws of this state other than this part in connection with the
360 application or the acquisition or use of the vessel ~~The~~
361 ~~application shall include the true name of the owner, the~~
362 ~~residence or business address of the owner, and the complete~~
363 ~~description of the vessel, including the hull identification~~
364 ~~number, except that an application for a certificate of title~~
365 ~~for a homemade vessel shall state all the foregoing information~~
366 ~~except the hull identification number.~~

367 (7) (a) The application shall be signed by the owner and
368 shall be accompanied by personal or business identification and
369 the prescribed fee. An individual applicant must provide a valid
370 driver license or identification card issued by this state or
371 another state or a valid passport. A business applicant must
372 provide a federal employer identification number, if applicable,
373 verification that the business is authorized to conduct business
374 in the state, or a Florida city or county business license or
375 number.

376 (b) The owner of an undocumented vessel that is exempt
 377 from titling may apply to the county tax collector for a
 378 certificate of title by filing an application accompanied by the
 379 prescribed fee.

380 ~~(2) (a) The owner of a manufactured vessel that was~~
 381 ~~initially sold in this state for which vessel an application for~~
 382 ~~an initial title is made shall establish proof of ownership by~~
 383 ~~submitting with the application the original copy of the~~
 384 ~~manufacturer's statement of origin for that vessel.~~

385 ~~(b) The owner of a manufactured vessel that was initially~~
 386 ~~sold in another state or country for which vessel an application~~
 387 ~~for an initial title is made shall establish proof of ownership~~
 388 ~~by submitting with the application:~~

389 ~~1. The original copy of the manufacturer's statement of~~
 390 ~~origin if the vessel was initially sold or manufactured in a~~
 391 ~~state or country requiring the issuance of such a statement or~~
 392 ~~the original copy of the executed bill of sale if the vessel was~~
 393 ~~initially sold or manufactured in a state or country not~~
 394 ~~requiring the issuance of a manufacturer's statement of origin;~~
 395 ~~and~~

396 ~~2. The most recent certificate of registration for the~~
 397 ~~vessel, if such a certificate was issued.~~

398 ~~(c) In making application for an initial title, the owner~~
 399 ~~of a homemade vessel shall establish proof of ownership by~~
 400 ~~submitting with the application:~~

401 ~~1. A notarized statement of the builder or its equivalent,~~
402 ~~whichever is acceptable to the Department of Highway Safety and~~
403 ~~Motor Vehicles, if the vessel is less than 16 feet in length; or~~

404 ~~2. A certificate of inspection from the Fish and Wildlife~~
405 ~~Conservation Commission and a notarized statement of the builder~~
406 ~~or its equivalent, whichever is acceptable to the Department of~~
407 ~~Highway Safety and Motor Vehicles, if the vessel is 16 feet or~~
408 ~~more in length.~~

409 ~~(d) The owner of a nontitled vessel registered or~~
410 ~~previously registered in another state or country for which an~~
411 ~~application for title is made in this state shall establish~~
412 ~~proof of ownership by surrendering, with the submission of the~~
413 ~~application, the original copy of the most current certificate~~
414 ~~of registration issued by the other state or country.~~

415 ~~(e) The owner of a vessel titled in another state or~~
416 ~~country for which an application for title is made in this state~~
417 ~~shall not be issued a title unless and until all existing titles~~
418 ~~to the vessel are surrendered to the Department of Highway~~
419 ~~Safety and Motor Vehicles. The department shall retain the~~
420 ~~evidence of title which is presented by the applicant and on the~~
421 ~~basis of which the certificate of title is issued. The~~
422 ~~department shall use reasonable diligence in ascertaining~~
423 ~~whether the facts in the application are true; and, if satisfied~~
424 ~~that the applicant is the owner of the vessel and that the~~
425 ~~application is in the proper form, the department shall issue a~~

426 ~~certificate of title.~~

427 ~~(f) In making application for the titling of a vessel~~
428 ~~previously documented by the Federal Government, the current~~
429 ~~owner shall establish proof of ownership by submitting with the~~
430 ~~application a copy of the canceled documentation papers or a~~
431 ~~properly executed release from documentation certificate~~
432 ~~provided by the United States Coast Guard. In the event such~~
433 ~~documentation papers or certification are in the name of a~~
434 ~~person other than the current owner, the current owner shall~~
435 ~~provide the original copy of all subsequently executed bills of~~
436 ~~sale applicable to the vessel.~~

437 ~~(3)(a) In making application for a title upon transfer of~~
438 ~~ownership of a vessel, the new owner shall surrender to the~~
439 ~~Department of Highway Safety and Motor Vehicles the last title~~
440 ~~document issued for that vessel. The document shall be properly~~
441 ~~executed. Proper execution includes, but is not limited to, the~~
442 ~~previous owner's signature and certification that the vessel to~~
443 ~~be transferred is debt-free or is subject to a lien. If a lien~~
444 ~~exists, the previous owner shall furnish the new owner, on forms~~
445 ~~supplied by the Department of Highway Safety and Motor Vehicles,~~
446 ~~the names and addresses of all lienholders and the dates of all~~
447 ~~liens, together with a statement from each lienholder that the~~
448 ~~lienholder has knowledge of and consents to the transfer of~~
449 ~~title to the new owner.~~

450 ~~(b) If the application for transfer of title is based upon~~

451 ~~a contractual default, the recorded lienholder shall establish~~
452 ~~proof of right to ownership by submitting with the application~~
453 ~~the original certificate of title and a copy of the applicable~~
454 ~~contract upon which the claim of ownership is made. If the claim~~
455 ~~is based upon a court order or judgment, a copy of such document~~
456 ~~shall accompany the application for transfer of title. If, on~~
457 ~~the basis of departmental records, there appears to be any other~~
458 ~~lien on the vessel, the certificate of title must contain a~~
459 ~~statement of such a lien, unless the application for a~~
460 ~~certificate of title is either accompanied by proper evidence of~~
461 ~~the satisfaction or extinction of the lien or contains a~~
462 ~~statement certifying that any lienholder named on the last-~~
463 ~~issued certificate of title has been sent notice by certified~~
464 ~~mail, at least 5 days before the application was filed, of the~~
465 ~~applicant's intention to seek a repossessed title. If such~~
466 ~~notice is given and no written protest to the department is~~
467 ~~presented by a subsequent lienholder within 15 days after the~~
468 ~~date on which the notice was mailed, the certificate of title~~
469 ~~shall be issued showing no liens. If the former owner or any~~
470 ~~subsequent lienholder files a written protest under oath within~~
471 ~~the 15-day period, the department shall not issue the~~
472 ~~repossessed certificate for 10 days thereafter. If, within the~~
473 ~~10-day period, no injunction or other order of a court of~~
474 ~~competent jurisdiction has been served on the department~~
475 ~~commanding it not to deliver the certificate, the department~~

476 ~~shall deliver the repossessed certificate to the applicant, or~~
477 ~~as is otherwise directed in the application, showing no other~~
478 ~~liens than those shown in the application.~~

479 (c) In making application for transfer of title from a
480 deceased titled owner, the new owner or surviving coowner shall
481 establish proof of ownership by submitting with the application
482 the original certificate of title and the decedent's probated
483 last will and testament or letters of administration appointing
484 the personal representative of the decedent. In lieu of a
485 probated last will and testament or letters of administration, a
486 copy of the decedent's death certificate, a copy of the
487 decedent's last will and testament, and an affidavit by the
488 decedent's surviving spouse or heirs affirming rights of
489 ownership may be accepted by the department. If the decedent
490 died intestate, a court order awarding the ownership of the
491 vessel or an affidavit by the decedent's surviving spouse or
492 heirs establishing or releasing all rights of ownership and a
493 copy of the decedent's death certificate shall be submitted to
494 the department.

495 (d) An owner or coowner who has made a bona fide sale or
496 transfer of a vessel and has delivered possession thereof to a
497 purchaser shall not, by reason of any of the provisions of this
498 chapter, be considered the owner or coowner of the vessel so as
499 to be subject to civil liability for the operation of the vessel
500 thereafter by another if the owner or coowner has fulfilled

501 either of the following requirements:

502 1. The owner or coowner has delivered to the department,
503 or has placed in the United States mail, addressed to the
504 department, either the certificate of title, properly endorsed,
505 or a notice in the form prescribed by the department; or

506 2. The owner or coowner has made proper endorsement and
507 delivery of the certificate of title as provided by this
508 chapter. As used in this subparagraph, the term "proper
509 endorsement" means:

510 a. The signature of one coowner if the vessel is held in
511 joint tenancy, signified by the vessel's being registered in the
512 names of two or more persons as coowners in the alternative by
513 the use of the word "or." In a joint tenancy, each coowner is
514 considered to have granted to each of the other coowners the
515 absolute right to dispose of the title and interest in the
516 vessel, and, upon the death of a coowner, the interest of the
517 decedent in the jointly held vessel passes to the surviving
518 coowner or coowners. This sub-subparagraph is applicable even if
519 the coowners are husband and wife; or

520 b. The signatures of every coowner or of the respective
521 personal representatives of the coowners if the vessel is
522 registered in the names of two or more persons as coowners in
523 the conjunctive by the use of the word "and."

524

525 The department shall adopt suitable language that must appear

526 upon the certificate of title to effectuate the manner in which
527 the interest in or title to the vessel is held.

528 (8)~~(4)~~ If the owner cannot furnish the department of
529 ~~Highway Safety and Motor Vehicles~~ with all the required
530 ownership documentation, the department may, at its discretion,
531 issue a title conditioned on the owner's agreement to indemnify
532 the department and its agents and defend the title against all
533 claims or actions arising out of such issuance.

534 (9)~~(5)~~(a) An application for an initial title or a title
535 transfer shall include payment of the applicable state sales tax
536 or proof of payment of such tax.

537 (b) An application for a title transfer between
538 individuals, which transfer is not exempt from the payment of
539 sales tax, shall include payment of the appropriate sales tax
540 payable on the selling price for the complete vessel rig, which
541 includes the vessel and its motor, trailer, and accessories, if
542 any. If the applicant submits with his or her application an
543 itemized, properly executed bill of sale which separately
544 describes and itemizes the prices paid for each component of the
545 rig, only the vessel and trailer will be subject to the sales
546 tax.

547 (10)~~(6)~~ The department of ~~Highway Safety and Motor~~
548 ~~Vehicles~~ shall prescribe and provide suitable forms for
549 applications, certificates of title, notices of security
550 interests, and other notices and forms necessary to carry out

551 the provisions of this chapter.

552 Section 4. Section 328.015, Florida Statutes, is created
553 to read:

554 328.015 Duties and operation of the department.—

555 (1) The department shall retain the evidence used to
556 establish the accuracy of the information in its files relating
557 to the current ownership of a vessel and the information on the
558 certificate of title.

559 (2) The department shall retain in its files all
560 information regarding a security interest in a vessel for at
561 least 10 years after the department receives a termination
562 statement regarding the security interest. The information must
563 be accessible by the hull identification number for the vessel
564 and any other methods provided by the department.

565 (3) If a person submits a record to the department, or
566 submits information that is accepted by the department, and
567 requests an acknowledgment of the filing or submission, the
568 department shall send to the person an acknowledgment showing
569 the hull identification number of the vessel to which the record
570 or submission relates, the information in the filed record or
571 submission, and the date and time the record was received or the
572 submission was accepted. A request under this section must
573 contain the hull identification number and be delivered by means
574 authorized by the department.

575 (4) The department shall send or otherwise make available

576 in a record the following information to any person who requests
577 it and pays the applicable fee:

578 (a) Whether the files of the department indicate, as of a
579 date and time specified by the department, but not a date
580 earlier than 3 days before the department received the request,
581 any certificate of title, security interest, termination
582 statement, or title brand that relates to a vessel:

583 1. Identified by a hull identification number designated
584 in the request;

585 2. Identified by a vessel number designated in the
586 request; or

587 3. Owned by a person designated in the request;

588 (b) With respect to the vessel:

589 1. The name and address of any owner as indicated in the
590 files of the department or on the certificate of title;

591 2. The name and address of any secured party as indicated
592 in the files of the department or on the certificate, and the
593 effective date of the information; and

594 3. A copy of any termination statement indicated in the
595 files of the department and the effective date of the
596 termination statement; and

597 (c) With respect to the vessel, a copy of any certificate
598 of origin, secured party transfer statement, transfer-by-law
599 statement under s. 328.24, and other evidence of previous or
600 current transfers of ownership.

601 (5) In responding to a request under this section, the
 602 department may provide the requested information in any medium.
 603 On request, the department shall send the requested information
 604 in a record that is self-authenticating.

605 Section 5. Section 328.02, Florida Statutes, is created to
 606 read:

607 328.02 Law governing vessel covered by certificate of
 608 title.-

609 (1) The law of the state under which a vessel's
 610 certificate of title is covered governs all issues relating to
 611 the certificate from the time the vessel becomes covered by the
 612 certificate until the vessel becomes covered by another
 613 certificate or becomes a documented vessel, even if no other
 614 relationship exists between the state and the vessel or its
 615 owner.

616 (2) A vessel becomes covered by a certificate of title
 617 when an application for the certificate and the applicable fee
 618 are delivered to the department in accordance with this part or
 619 to the governmental agency that creates a certificate in another
 620 jurisdiction in accordance with the law of that jurisdiction.

621 Section 6. Section 328.03, Florida Statutes, is amended to
 622 read:

623 328.03 Certificate of title required.-

624 (1) Except as otherwise provided in subsections (2) and
 625 (3), each vessel that is operated, used, or stored on the waters

626 of this state must be titled by this state pursuant to this
 627 part, and the owner of a vessel for which this state is the
 628 state of principal use shall deliver to the department an
 629 application for a certificate of title for the vessel, with the
 630 applicable fee, not later than 30 days after the later of:
 631 (a) The date of a transfer of ownership; or
 632 (b) The date this state becomes the state of principal
 633 use.
 634 (2) An application for a certificate of title is not
 635 required for chapter, unless it is:
 636 (a) A documented vessel;
 637 (b) A foreign-documented vessel;
 638 (c) A barge;
 639 (d) A vessel before delivery if the vessel is under
 640 construction or completed pursuant to contract;
 641 (e) A vessel held by a dealer for sale or lease;
 642 (f) A vessel used solely for demonstration, testing, or
 643 sales promotional purposes by the manufacturer or dealer;
 644 (g) ~~(a)~~ A vessel operated, used, or stored exclusively on
 645 private lakes and ponds;
 646 (h) ~~(b)~~ A vessel owned by the United States Government;
 647 ~~(c) A non-motor-powered vessel less than 16 feet in~~
 648 ~~length;~~
 649 ~~(d) A federally documented vessel;~~
 650 (i) ~~(e)~~ A vessel already covered by a registration number

651 in full force and effect which was awarded to it pursuant to a
652 federally approved numbering system of another state or by the
653 United States Coast Guard in a state without a federally
654 approved numbering system, if the vessel is not located in this
655 state for a period in excess of 90 consecutive days; or

656 (j) ~~(f)~~ A vessel from a country other than the United
657 States temporarily used, operated, or stored on the waters of
658 this state for a period that is not in excess of 90 days;

659 ~~(g) An amphibious vessel for which a vehicle title is~~
660 ~~issued by the Department of Highway Safety and Motor Vehicles;~~

661 ~~(h) A vessel used solely for demonstration, testing, or~~
662 ~~sales promotional purposes by the manufacturer or dealer; or~~

663 ~~(i) A vessel owned and operated by the state or a~~
664 ~~political subdivision thereof.~~

665 (3) The department may not issue, transfer, or renew a
666 number issued to a vessel pursuant to the requirements of 46
667 U.S.C. s. 12301 unless the department has created a certificate
668 of title for the vessel or an application for a certificate for
669 the vessel and the applicable fee have been delivered to the
670 department.

671 ~~(2) A person shall not operate, use, or store a vessel for~~
672 ~~which a certificate of title is required unless the owner has~~
673 ~~received from the Department of Highway Safety and Motor~~
674 ~~Vehicles a valid certificate of title for such vessel. However,~~
675 ~~such vessel may be operated, used, or stored for a period of up~~

676 | ~~to 180 days after the date of application for a certificate of~~
677 | ~~title while the application is pending.~~

678 | ~~(3) A person shall not sell, assign, or transfer a vessel~~
679 | ~~titled by the state without delivering to the purchaser or~~
680 | ~~transferee a valid certificate of title with an assignment on it~~
681 | ~~showing the transfer of title to the purchaser or transferee. A~~
682 | ~~person shall not purchase or otherwise acquire a vessel required~~
683 | ~~to be titled by the state without obtaining a certificate of~~
684 | ~~title for the vessel in his or her name. The purchaser or~~
685 | ~~transferee shall, within 30 days after a change in vessel~~
686 | ~~ownership, file an application for a title transfer with the~~
687 | ~~county tax collector.~~

688 | (4) An additional \$10 fee shall be charged against the
689 | purchaser or transferee if he or she files a title transfer
690 | application after the 30-day period. The county tax collector
691 | shall be entitled to retain \$5 of the additional amount.

692 | (5)~~(4)~~ A certificate of title is prima facie evidence of
693 | the accuracy of the information in the record that constitutes
694 | the certificate and of the ownership of the vessel. A
695 | certificate of title is good for the life of the vessel so long
696 | as the certificate is owned or held by the legal holder. If a
697 | titled vessel is destroyed or abandoned, the owner, with the
698 | consent of any recorded lienholders, shall, within 30 days after
699 | the destruction or abandonment, surrender to the department for
700 | cancellation any and all title documents. If a titled vessel is

701 insured and the insurer has paid the owner for the total loss of
702 the vessel, the insurer shall obtain the title to the vessel
703 and, within 30 days after receiving the title, forward the title
704 to the department ~~of Highway Safety and Motor Vehicles~~ for
705 cancellation. The insurer may retain the certificate of title
706 when payment for the loss was made because of the theft of the
707 vessel.

708 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
709 shall provide labeled places on the title where the seller's
710 price shall be indicated when a vessel is sold and where a
711 selling dealer shall record his or her valid sales tax
712 certificate of registration number.

713 (7)~~(6)~~ (a) The department ~~of Highway Safety and Motor~~
714 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
715 certificate of title. The tax collector shall be entitled to
716 retain \$3.75 of the fee.

717 (b) ~~Beginning July 1, 1996,~~ The department ~~of Highway~~
718 ~~Safety and Motor Vehicles~~ shall use security procedures,
719 processes, and materials in the preparation and issuance of each
720 certificate of title to prohibit, to the extent possible, a
721 person's ability to alter, counterfeit, duplicate, or modify the
722 certificate.

723 (8)~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
724 shall charge a fee of \$4 in addition to that charged in
725 subsection (7) ~~(6)~~ for each initial certificate of title issued

726 for a vessel previously registered outside this state.

727 ~~(9)(8)~~ The department of Highway Safety and Motor Vehicles
728 shall make regulations necessary and convenient to carry out the
729 provisions of this chapter.

730 Section 7. Section 328.04, Florida Statutes, is created to
731 read:

732 328.04 Content of certificate of title.—

733 (1) A certificate of title must contain:

734 (a) The date the certificate was created;

735 (b) The name of the owner of record and, if not all owners
736 are listed, an indication that there are additional owners
737 indicated in the files of the department;

738 (c) The mailing address of the owner of record;

739 (d) The hull identification number;

740 (e) The information listed in s. 328.01(2)(e);

741 (f) Except as otherwise provided in s. 328.12(2), the name
742 and mailing address of the secured party of record, if any, and
743 if not all secured parties are listed, an indication that there
744 are other security interests indicated in the files of the
745 department; and

746 (g) All title brands indicated in the files of the
747 department covering the vessel, including brands indicated on a
748 certificate created by a governmental agency of another
749 jurisdiction and delivered to the department.

750 (2) This part does not preclude the department from noting

751 on a certificate of title the name and mailing address of a
752 secured party that is not a secured party of record.

753 (3) For each title brand indicated on a certificate of
754 title, the certificate must identify the jurisdiction under
755 whose law the title brand was created or the jurisdiction that
756 created the certificate on which the title brand was indicated.
757 If the meaning of a title brand is not easily ascertainable or
758 cannot be accommodated on the certificate, the certificate may
759 state: "Previously branded in (insert the jurisdiction under
760 whose law the title brand was created or whose certificate of
761 title previously indicated the title brand)."

762 (4) If the files of the department indicate that a vessel
763 was previously registered or titled in a foreign country, the
764 department shall indicate on the certificate of title that the
765 vessel was registered or titled in that country.

766 (5) A written certificate of title must contain a form
767 that all owners indicated on the certificate may sign to
768 evidence consent to a transfer of an ownership interest to
769 another person. The form must include a certification, signed
770 under penalty of perjury, that the statements made are true and
771 correct to the best of each owner's knowledge, information, and
772 belief.

773 (6) A written certificate of title must contain a form for
774 the owner of record to indicate, in connection with a transfer
775 of an ownership interest, that the vessel is hull damaged.

776 Section 8. Section 328.045, Florida Statutes, is created
777 to read:

778 328.045 Title brands.-

779 (1) Unless subsection (3) applies, at or before the time
780 the owner of record transfers an ownership interest in a hull-
781 damaged vessel that is covered by a certificate of title created
782 by the department, if the damage occurred while that person was
783 an owner of the vessel and the person has notice of the damage
784 at the time of the transfer, the owner shall:

785 (a) Deliver to the department an application for a new
786 certificate that complies with s. 328.01 and includes the title
787 brand designation "Hull Damaged"; or

788 (b) Indicate on the certificate in the place designated
789 for that purpose that the vessel is hull damaged and deliver the
790 certificate to the transferee.

791 (2) Not later than 30 days after delivery of the
792 application under paragraph (1)(a) or the certificate of title
793 under paragraph (1)(b), the department shall create a new
794 certificate that indicates that the vessel is branded "Hull
795 Damaged."

796 (3) Before an insurer transfers an ownership interest in a
797 hull-damaged vessel that is covered by a certificate of title
798 created by the department, the insurer shall deliver to the
799 department an application for a new certificate that complies
800 with s. 328.01 and includes the title brand designation "Hull

801 Damaged." Not later than 30 days after delivery of the
 802 application to the department, the department shall create a new
 803 certificate that indicates that the vessel is branded "Hull
 804 Damaged."

805 (4) An owner of record who fails to comply with subsection
 806 (1), a person who solicits or colludes in a failure by an owner
 807 of record to comply with subsection (1), or an insurer that
 808 fails to comply with subsection (3) commits a noncriminal
 809 infraction under s. 327.73(1) for which the penalty is \$5,000
 810 for the first offense, \$15,000 for a second offense, and \$25,000
 811 for each subsequent offense.

812 Section 9. Section 328.055, Florida Statutes, is created
 813 to read:

814 328.055 Maintenance of and access to files.—

815 (1) For each record relating to a certificate of title
 816 submitted to the department, the department shall:

817 (a) Ascertain or assign the hull identification number for
 818 the vessel;

819 (b) Maintain the hull identification number and all the
 820 information submitted with the application pursuant to s.
 821 328.01(2) to which the record relates, including the date and
 822 time the record was delivered to the department; and

823 (c) Index the files of the department as required by
 824 subsection (2).

825 (2) The department shall maintain in its files the

826 information contained in all certificates of title created under
827 this part. The information in the files of the department must
828 be searchable by the hull identification number of the vessel,
829 the vessel number, the name of the owner of record, and any
830 other method used by the department.

831 (3) The department shall maintain in its files, for each
832 vessel for which it has created a certificate of title, all
833 title brands known to the department, the name of each secured
834 party known to the department, the name of each person known to
835 the department to be claiming an ownership interest, and all
836 stolen property reports the department has received.

837 Section 10. Section 328.06, Florida Statutes, is created
838 to read:

839 328.06 Action required on creation of certificate of
840 title.—

841 (1) On creation of a written certificate of title, the
842 department shall promptly send the certificate to the secured
843 party of record or, if none, to the owner of record at the
844 address indicated for that person in the files of the
845 department. On creation of an electronic certificate of title,
846 the department shall promptly send a record evidencing the
847 certificate to the owner of record and, if there is one, to the
848 secured party of record at the address indicated for each person
849 in the files of the department. The department may send the
850 record to the person's mailing address or, if indicated in the

851 files of the department, an electronic address.

852 (2) If the department creates a written certificate of
853 title, any electronic certificate of title for the vessel is
854 canceled and replaced by the written certificate. The department
855 shall maintain in the files of the department the date and time
856 of cancellation.

857 (3) Before the department creates an electronic
858 certificate of title, any written certificate for the vessel
859 must be surrendered to the department. If the department creates
860 an electronic certificate, the department shall destroy or
861 otherwise cancel the written certificate for the vessel which
862 has been surrendered to the department and maintain in the files
863 of the department the date and time of destruction or other
864 cancellation. If a written certificate being canceled is not
865 destroyed, the department shall indicate on the face of the
866 certificate that it has been canceled.

867 Section 11. Section 328.065, Florida Statutes, is created
868 to read:

869 328.065 Effect of possession of certificate of title;
870 judicial process.—Possession of a certificate of title does not
871 by itself provide a right to obtain possession of a vessel.
872 Garnishment, attachment, levy, replevin, or other judicial
873 process against the certificate is not effective to determine
874 possessory rights to the vessel. This part does not prohibit
875 enforcement under the laws of this state of a security interest

876 in, levy on, or foreclosure of a statutory or common-law lien on
877 a vessel. Absence of an indication of a statutory or common-law
878 lien on a certificate does not invalidate the lien.

879 Section 12. Section 328.09, Florida Statutes, is amended
880 to read:

881 (Substantial rewording of section. See
882 s. 328.09, F.S., for present text.)

883 328.09 Refusal to issue and authority to cancel a
884 certificate of title or registration.-

885 (1) Unless an application for a certificate of title is
886 rejected under subsection (3) or subsection (4), the department
887 shall create a certificate for the vessel in accordance with
888 subsection (2) not later than 30 days after delivery to the
889 department of an application that complies with s. 328.01.

890 (2) If the department creates electronic certificates of
891 title, the department shall create an electronic certificate
892 unless in the application the secured party of record or, if
893 none, the owner of record requests that the department create a
894 written certificate.

895 (3) Except as otherwise provided in subsection (4), the
896 department may reject an application for a certificate of title
897 only if:

898 (a) The application does not comply with s. 328.01;

899 (b) The application does not contain documentation

900 sufficient for the department to determine whether the applicant

901 is entitled to a certificate;

902 (c) There is a reasonable basis for concluding that the
 903 application is fraudulent or issuance of a certificate would
 904 facilitate a fraudulent or illegal act; or

905 (d) The application does not comply with the laws of this
 906 state other than this part.

907 (4) The department shall reject an application for a
 908 certificate of title for a vessel that is a documented vessel or
 909 a foreign-documented vessel.

910 (5) The department may cancel a certificate of title
 911 created by it only if the department:

912 (a) Could have rejected the application for the
 913 certificate under subsection (3);

914 (b) Is required to cancel the certificate under another
 915 provision of this part; or

916 (c) Receives satisfactory evidence that the vessel is a
 917 documented vessel or a foreign-documented vessel.

918 (6) The decision by the department to reject an
 919 application for a certificate of title or cancel a certificate
 920 of title pursuant to this section is subject to a hearing
 921 pursuant to ss. 120.569 and 120.57 at which the owner and any
 922 other interested party may present evidence in support of or
 923 opposition to the rejection of the application for a certificate
 924 of title or the cancellation of a certificate of title.

925 Section 13. Section 328.101, Florida Statutes, is created

926 to read:

927 328.101 Effect of missing or incorrect information.—Except
 928 as otherwise provided in s. 679.337, a certificate of title or
 929 other record required or authorized by this part is effective
 930 even if it contains unintended scrivener's errors or does not
 931 contain certain required information if such missing information
 932 is determined by the department to be inconsequential to the
 933 issuing of a certificate of title or other record.

934 Section 14. Section 328.11, Florida Statutes, is amended
 935 to read:

936 328.11 Duplicate certificate of title.—

937 (1) If a written certificate of title is lost, stolen,
 938 mutilated, destroyed, or otherwise becomes unavailable or
 939 illegible, the secured party of record or, if no secured party
 940 is indicated in the files of the department, the owner of record
 941 may apply for and, by furnishing information satisfactory to the
 942 department, obtain a duplicate certificate in the name of the
 943 owner of record.

944 (2) An applicant for a duplicate certificate of title must
 945 sign the application, and, except as otherwise permitted by the
 946 department, the application must comply with s. 328.01. The
 947 application must include the existing certificate unless the
 948 certificate is lost, stolen, mutilated, destroyed, or otherwise
 949 unavailable.

950 (3) A duplicate certificate of title created by the

951 department must comply with s. 328.04 and indicate on the face
952 of the certificate that it is a duplicate certificate.

953 (4) If a person receiving a duplicate certificate of title
954 subsequently obtains possession of the original written
955 certificate, the person shall promptly destroy the original
956 certificate of title.

957 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
958 ~~may issue a duplicate certificate of title upon application by~~
959 ~~the person entitled to hold such a certificate if the department~~
960 ~~is satisfied that the original certificate has been lost,~~
961 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6
962 for issuing a duplicate certificate.

963 ~~(6)(2)~~ In addition to the fee imposed by subsection (5)
964 ~~(1)~~, the department of Highway Safety and Motor Vehicles shall
965 charge a fee of \$5 for expedited service in issuing a duplicate
966 certificate of title. Application for such expedited service may
967 be made by mail or in person. The department shall issue each
968 certificate of title applied for under this subsection within 5
969 working days after receipt of a proper application or shall
970 refund the additional \$5 fee upon written request by the
971 applicant.

972 ~~(3) If, following the issuance of an original, duplicate,~~
973 ~~or corrected certificate of title by the department, the~~
974 ~~certificate is lost in transit and is not delivered to the~~
975 ~~addressee, the owner of the vessel or the holder of a lien~~

976 ~~thereon may, within 180 days after the date of issuance of the~~
977 ~~title, apply to the department for reissuance of the certificate~~
978 ~~of title. An additional fee may not be charged for reissuance~~
979 ~~under this subsection.~~

980 (7)(4) The department shall implement a system to verify
981 that the application is signed by a person authorized to receive
982 a duplicate title certificate under this section if the address
983 shown on the application is different from the address shown for
984 the applicant on the records of the department.

985 Section 15. Section 328.12, Florida Statutes, is created
986 to read:

987 328.12 Perfection of security interest.—

988 (1) Except as otherwise provided in this section, a
989 security interest in a vessel may be perfected only by delivery
990 to the department of an application for a certificate of title
991 that identifies the secured party and otherwise complies with s.
992 328.01. The security interest is perfected on the later of
993 delivery to the department of the application and the applicable
994 fee or attachment of the security interest under s. 679.2031.

995 (2) If the interest of a person named as owner, lessor,
996 consignor, or bailor in an application for a certificate of
997 title delivered to the department is a security interest, the
998 application sufficiently identifies the person as a secured
999 party. Identification on the application for a certificate of a
1000 person as owner, lessor, consignor, or bailor is not by itself a

1001 factor in determining whether the person's interest is a
1002 security interest.

1003 (3) If the department has created a certificate of title
1004 for a vessel, a security interest in the vessel may be perfected
1005 by delivery to the department of an application, on a form the
1006 department may require, to have the security interest added to
1007 the certificate. The application must be signed by an owner of
1008 the vessel or by the secured party and must include:

1009 (a) The name of the owner of record;

1010 (b) The name and mailing address of the secured party;

1011 (c) The hull identification number for the vessel; and

1012 (d) If the department has created a written certificate of
1013 title for the vessel, the certificate.

1014 (4) A security interest perfected under subsection (3) is
1015 perfected on the later of delivery to the department of the
1016 application and all applicable fees or attachment of the
1017 security interest under s. 679.2031.

1018 (5) On delivery of an application that complies with
1019 subsection (3) and payment of all applicable fees, the
1020 department shall create a new certificate of title pursuant to
1021 s. 328.09 and deliver the new certificate or a record evidencing
1022 an electronic certificate pursuant to s. 328.06. The department
1023 shall maintain in the files of the department the date and time
1024 of delivery of the application to the department.

1025 (6) If a secured party assigns a perfected security

1026 interest in a vessel, the receipt by the department of a
1027 statement providing the name of the assignee as secured party is
1028 not required to continue the perfected status of the security
1029 interest against creditors of and transferees from the original
1030 debtor. A purchaser of a vessel subject to a security interest
1031 who obtains a release from the secured party indicated in the
1032 files of the department or on the certificate takes free of the
1033 security interest and of the rights of a transferee unless the
1034 transfer is indicated in the files of the department or on the
1035 certificate.

1036 (7) This section does not apply to a security interest:

1037 (a) Created in a vessel by a person during any period in
1038 which the vessel is inventory held for sale or lease by the
1039 person or is leased by the person as lessor if the person is in
1040 the business of selling vessels;

1041 (b) In a barge for which no application for a certificate
1042 of title has been delivered to the department; or

1043 (c) In a vessel before delivery if the vessel is under
1044 construction, or completed, pursuant to contract and for which
1045 no application for a certificate has been delivered to the
1046 department.

1047 (8) This subsection applies if a certificate of
1048 documentation for a documented vessel is deleted or canceled. If
1049 a security interest in the vessel was valid immediately before
1050 deletion or cancellation against a third party as a result of

1051 compliance with 46 U.S.C. s. 31321, the security interest is and
1052 remains perfected until the earlier of 4 months after
1053 cancellation of the certificate or the time the security
1054 interest becomes perfected under this part.

1055 (9) A security interest in a vessel arising under s.
1056 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1057 perfected when it attaches but becomes unperfected when the
1058 debtor obtains possession of the vessel, unless the security
1059 interest is perfected pursuant to subsection (1) or subsection
1060 (3) before the debtor obtains possession.

1061 (10) A security interest in a vessel as proceeds of other
1062 collateral is perfected to the extent provided in s. 679.3151.

1063 (11) A security interest in a vessel perfected under the
1064 law of another jurisdiction is perfected to the extent provided
1065 in s. 679.3161(4).

1066 (12) For purposes of this section and this part, the
1067 Department of Revenue shall be treated as a secured party when
1068 collecting unpaid support.

1069 Section 16. Section 328.125, Florida Statutes, is created
1070 to read:

1071 328.125 Termination statement.—

1072 (1) A secured party indicated in the files of the
1073 department as having a security interest in a vessel shall
1074 deliver a termination statement to the department and, on the
1075 debtor's request, to the debtor, by the earlier of:

1076 (a) Twenty days after the secured party receives a signed
1077 demand from an owner for a termination statement and there is no
1078 obligation secured by the vessel subject to the security
1079 interest and no commitment to make an advance, incur an
1080 obligation, or otherwise give value secured by the vessel; or

1081 (b) If the vessel is consumer goods, 30 days after there
1082 is no obligation secured by the vessel and no commitment to make
1083 an advance, incur an obligation, or otherwise give value secured
1084 by the vessel.

1085 (2) If a written certificate of title has been created and
1086 delivered to a secured party and a termination statement is
1087 required under subsection (1), the secured party, not later than
1088 the date required by subsection (1), shall deliver the
1089 certificate to the debtor or to the department with the
1090 statement. If the certificate is lost, stolen, mutilated,
1091 destroyed, or is otherwise unavailable or illegible, the secured
1092 party shall deliver with the statement, not later than the date
1093 required by subsection (1), an application for a duplicate
1094 certificate meeting the requirements of s. 328.11.

1095 (3) On delivery to the department of a termination
1096 statement authorized by the secured party, the security interest
1097 to which the statement relates ceases to be perfected. If the
1098 security interest to which the statement relates was indicated
1099 on the certificate of title, the department shall create a new
1100 certificate and deliver the new certificate or a record

1101 evidencing an electronic certificate. The department shall
 1102 maintain in its files the date and time of delivery to the
 1103 department of the statement.

1104 (4) A secured party that fails to comply with this section
 1105 is liable for any loss that the secured party had reason to know
 1106 might result from its failure to comply and which could not
 1107 reasonably have been prevented and for the cost of an
 1108 application for a certificate of title under s. 328.01 or s.
 1109 328.11.

1110 Section 17. Section 328.14, Florida Statutes, is created
 1111 to read:

1112 328.14 Rights of purchaser other than secured party.—

1113 (1) A buyer in ordinary course of business has the
 1114 protections afforded by ss. 672.403(2) and 679.320(1) even if an
 1115 existing certificate of title was not signed and delivered to
 1116 the buyer or a new certificate listing the buyer as owner of
 1117 record was not created.

1118 (2) Except as otherwise provided in ss. 328.145 and
 1119 328.22, the rights of a purchaser of a vessel who is not a buyer
 1120 in ordinary course of business or a lien creditor are governed
 1121 by the Uniform Commercial Code.

1122 Section 18. Section 328.145, Florida Statutes, is created
 1123 to read:

1124 328.145 Rights of secured party.—

1125 (1) Subject to subsection (2), the effect of perfection

1126 and nonperfection of a security interest and the priority of a
1127 perfected or unperfected security interest with respect to the
1128 rights of a purchaser or creditor, including a lien creditor, is
1129 governed by the Uniform Commercial Code.

1130 (2) If, while a security interest in a vessel is perfected
1131 by any method under this part, the department creates a
1132 certificate of title that does not indicate that the vessel is
1133 subject to the security interest or contain a statement that it
1134 may be subject to security interests not indicated on the
1135 certificate:

1136 (a) A buyer of the vessel, other than a person in the
1137 business of selling or leasing vessels of that kind, takes free
1138 of the security interest if the buyer, acting in good faith and
1139 without knowledge of the security interest, gives value and
1140 receives possession of the vessel; and

1141 (b) The security interest is subordinate to a conflicting
1142 security interest in the vessel that is perfected under s.
1143 328.12 after creation of the certificate and without the
1144 conflicting secured party's knowledge of the security interest.

1145 Section 19. Section 328.15, Florida Statutes, is amended
1146 to read:

1147 328.15 Notice of lien on vessel; recording.—

1148 ~~(1) No lien for purchase money or as security for a debt~~
1149 ~~in the form of retain title contract, conditional bill of sale,~~
1150 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~

1151 ~~in any of the courts of this state against creditors or~~
1152 ~~subsequent purchasers for a valuable consideration and without~~
1153 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1154 ~~certificate shall contain the following information:~~

- 1155 ~~(a) Name and address of the registered owner;~~
- 1156 ~~(b) Date of lien;~~
- 1157 ~~(c) Description of the vessel to include make, type, motor~~
1158 ~~and serial number; and~~
- 1159 ~~(d) Name and address of lienholder.~~

1160

1161 ~~The lien shall be recorded by the Department of Highway Safety~~
1162 ~~and Motor Vehicles and shall be effective as constructive notice~~
1163 ~~when filed. The date of filing of the notice of lien is the date~~
1164 ~~of its receipt by the department's central office in~~
1165 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1166 ~~a county tax collector or of the tax collector's agent.~~

1167 ~~(2)(a) The Department of Highway Safety and Motor Vehicles~~
1168 ~~shall not enter any lien upon its lien records, whether it is a~~
1169 ~~first lien or a subordinate lien, unless the official~~
1170 ~~certificate of title issued for the vessel is furnished with the~~
1171 ~~notice of lien, so that the record of lien, whether original or~~
1172 ~~subordinate, may be noted upon the face thereof. After the~~
1173 ~~department records the lien, it shall send the certificate of~~
1174 ~~title to the holder of the first lien who shall hold such~~
1175 ~~certificate until the lien is satisfied in full.~~

1176 ~~(b) When a vessel is registered in the names of two or~~
1177 ~~more persons as coowners in the alternative by the use of the~~
1178 ~~word "or," whether or not the coowners are husband and wife,~~
1179 ~~each coowner is considered to have granted to any other coowner~~
1180 ~~the absolute right to place a lien or encumbrance on the vessel,~~
1181 ~~and the signature of one coowner constitutes proper execution of~~
1182 ~~the notice of lien. When a vessel is registered in the names of~~
1183 ~~two or more persons as coowners in the conjunctive by the use of~~
1184 ~~the word "and," the signature of each coowner is required in~~
1185 ~~order to place a lien or encumbrance on the vessel.~~

1186 ~~(c) If the owner of the vessel as shown on the title~~
1187 ~~certificate or the director of the state child support~~
1188 ~~enforcement program desires to place a second or subsequent lien~~
1189 ~~or encumbrance against the vessel when the title certificate is~~
1190 ~~in the possession of the first lienholder, the owner shall send~~
1191 ~~a written request to the first lienholder by certified mail and~~
1192 ~~such first lienholder shall forward the certificate to the~~
1193 ~~department for endorsement. The department shall return the~~
1194 ~~certificate to the first lienholder, as indicated in the notice~~
1195 ~~of lien filed by the first lienholder, after endorsing the~~
1196 ~~second or subsequent lien on the certificate and on the~~
1197 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1198 ~~to forward the certificate of title to the department within 10~~
1199 ~~days after the date of the owner's or the director's request,~~
1200 ~~the department, on written request of the subsequent lienholder~~

1201 ~~or an assignee thereof, shall demand of the first lienholder the~~
1202 ~~return of such certificate for the notation of the second or~~
1203 ~~subsequent lien or encumbrance.~~

1204 (1)~~(3)~~ Upon the payment of a any such lien, the debtor or
1205 the registered owner of the motorboat shall be entitled to
1206 demand and receive from the lienholder a satisfaction of the
1207 lien which shall likewise be filed with the Department of
1208 Highway Safety and Motor Vehicles.

1209 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
1210 under precautionary rules and regulations to be promulgated by
1211 it may permit the use, in substitution of the formal
1212 satisfaction of lien, of other methods of satisfaction, such as
1213 perforation, appropriate stamp, or otherwise, as it deems
1214 reasonable and adequate.

1215 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1216 Vehicles shall adopt rules to administer this section. The
1217 department may by rule require that a notice of satisfaction of
1218 a lien be notarized. The department shall prepare the forms of
1219 the notice of lien and the satisfaction of lien to be supplied,
1220 at a charge not to exceed 50 percent more than cost, to
1221 applicants for recording the liens or satisfactions and shall
1222 keep a record of such notices of lien and satisfactions
1223 available for inspection by the public at all reasonable times.
1224 The division may furnish certified copies of such satisfactions
1225 for a fee of \$1, which are admissible in evidence in all courts

1226 of this state under the same conditions and to the same effect
1227 as certified copies of other public records.

1228 (b) The department shall establish and administer an
1229 electronic titling program that requires the recording of vessel
1230 title information for new, transferred, and corrected
1231 certificates of title. Lienholders shall electronically transmit
1232 liens and lien satisfactions to the department in a format
1233 determined by the department. Individuals and lienholders who
1234 the department determines are not normally engaged in the
1235 business or practice of financing vessels are not required to
1236 participate in the electronic titling program.

1237 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1238 ~~entitled to a fee of \$1 for the recording of each notice of~~
1239 ~~lien. No fee shall be charged for recording the satisfaction of~~
1240 ~~a lien. All of the fees collected shall be paid into the Marine~~
1241 ~~Resources Conservation Trust Fund.~~

1242 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1243 such lien, which has been recorded by the Department of Highway
1244 Safety and Motor Vehicles, upon payment of such lien and on
1245 demand, fail or refuse, within 30 days after such payment and
1246 demand, to furnish the debtor or the registered owner of such
1247 vessel a satisfaction of the lien, then, in that event, such
1248 person, firm, or corporation shall be held liable for all costs,
1249 damages, and expenses, including reasonable attorney ~~attorney's~~
1250 fees, lawfully incurred by the debtor or the registered owner of

1251 such vessel in any suit which may be brought in the courts of
1252 this state for the cancellation of such lien.

1253 (b) Following satisfaction of a lien, the lienholder shall
1254 enter a satisfaction thereof in the space provided on the face
1255 of the certificate of title. If there are no subsequent liens
1256 shown thereon, the certificate shall be delivered by the
1257 lienholder to the person satisfying the lien or encumbrance and
1258 an executed satisfaction on a form provided by the department
1259 shall be forwarded to the department by the lienholder within 10
1260 days after satisfaction of the lien.

1261 (c) If the certificate of title shows a subsequent lien
1262 not then being discharged, an executed satisfaction of the first
1263 lien shall be delivered by the lienholder to the person
1264 satisfying the lien and the certificate of title showing
1265 satisfaction of the first lien shall be forwarded by the
1266 lienholder to the department within 10 days after satisfaction
1267 of the lien.

1268 (d) If, upon receipt of a title certificate showing
1269 satisfaction of the first lien, the department determines from
1270 its records that there are no subsequent liens or encumbrances
1271 upon the vessel, the department shall forward to the owner, as
1272 shown on the face of the title, a corrected certificate showing
1273 no liens or encumbrances. If there is a subsequent lien not
1274 being discharged, the certificate of title shall be reissued
1275 showing the second or subsequent lienholder as the first

1276 | lienholder and shall be delivered to the new first lienholder.
1277 | The first lienholder shall be entitled to retain the certificate
1278 | of title until his or her lien is satisfied. Upon satisfaction
1279 | of the lien, the lienholder shall be subject to the procedures
1280 | required of a first lienholder in this subsection ~~and in~~
1281 | ~~subsection (2)~~.

1282 | (5)~~(8)~~ When the original certificate of title cannot be
1283 | returned to the department by the lienholder and evidence
1284 | satisfactory to the department is produced that all liens or
1285 | encumbrances have been satisfied, upon application by the owner
1286 | for a duplicate copy of the certificate of title, upon the form
1287 | prescribed by the department, accompanied by the fee prescribed
1288 | in this chapter, a duplicate copy of the certificate of title
1289 | without statement of liens or encumbrances shall be issued by
1290 | the department and delivered to the owner.

1291 | (6)~~(9)~~ Any person who fails, within 10 days after receipt
1292 | of a demand by the department by certified mail, to return a
1293 | certificate of title to the department ~~as required by paragraph~~
1294 | ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1295 | after receipt of such demand to forward the appropriate document
1296 | to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1297 | paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1298 | degree, punishable as provided in s. 775.082 or s. 775.083.

1299 | (7)~~(10)~~ The department shall use the last known address as
1300 | shown by its records when sending any notice required by this

1301 section.

1302 (8)~~(11)~~ If the original lienholder sells and assigns his
 1303 or her lien to some other person, and if the assignee desires to
 1304 have his or her name substituted on the certificate of title as
 1305 the holder of the lien, he or she may, after delivering the
 1306 original certificate of title to the department and providing a
 1307 sworn statement of the assignment, have his or her name
 1308 substituted as a lienholder. Upon substitution of the assignee's
 1309 name as lienholder, the department shall deliver the certificate
 1310 of title to the assignee as the first lienholder.

1311 (9) Subsections (1), (2), and (4)-(8) shall expire October
 1312 1, 2026.

1313 Section 20. Section 328.16, Florida Statutes, is amended
 1314 to read:

1315 328.16 Issuance in duplicate; delivery; liens, security
 1316 interests, and encumbrances.—

1317 (1) The department shall assign a number to each
 1318 certificate of title and shall issue each certificate of title
 1319 and each corrected certificate in duplicate. The database record
 1320 shall serve as the duplicate title certificate.

1321 (2) An authorized person must sign the original
 1322 certificate of title and each corrected certificate and, if
 1323 there are no liens, security interests, or encumbrances on the
 1324 vessel, as shown in the records of the department or as shown in
 1325 the application, must deliver the certificate to the applicant

1326 or to another person as directed by the applicant or person,
1327 agent, or attorney submitting the application. If there are one
1328 or more liens, security interests, or encumbrances on the
1329 vessel, the department must deliver the certificate to the first
1330 lienholder or secured party as shown by department records. The
1331 department shall deliver to the first lienholder or secured
1332 party, along with the certificate, a form to be subsequently
1333 used by the lienholder or secured party as a satisfaction. If
1334 the application for certificate of title shows the name of a
1335 first lienholder or secured party which is different from the
1336 name of the first lienholder or secured party as shown by the
1337 records of the department, the certificate shall not be issued
1338 to any person until after the department notifies all parties
1339 who appear to hold a lien or a security interest and the
1340 applicant for the certificate, in writing by certified mail. If
1341 the parties do not amicably resolve the conflict within 10 days
1342 after the date the notice was mailed, the department shall serve
1343 notice in writing by certified mail on all persons that appear
1344 to hold liens or security interests on that particular vessel,
1345 including the applicant for the certificate, to show cause
1346 within 15 days after the date the notice is mailed why it should
1347 not issue and deliver the certificate to the secured party of
1348 record or person indicated in the notice of lien filed by the
1349 lienholder whose name appears in the application as the first
1350 lienholder without showing any lien or liens as outstanding

1351 other than those appearing in the application or those filed
1352 subsequent to the filing of the application for the certificate
1353 of title. If, within the 15-day period, any person other than
1354 the lienholder or secured party of record shown in the
1355 application or a party filing a subsequent lien or security
1356 interest, in answer to the notice to show cause, appears in
1357 person or by a representative, or responds in writing, and files
1358 a written statement under oath that his or her lien or security
1359 interest on that particular vessel is still outstanding, the
1360 department shall not issue the certificate to anyone until after
1361 the conflict has been settled by the lien or security interest
1362 claimants involved or by a court of competent jurisdiction. If
1363 the conflict is not settled amicably within 10 days after the
1364 final date for filing an answer to the notice to show cause, the
1365 complaining party shall have 10 days to obtain a ruling, or a
1366 stay order, from a court of competent jurisdiction. If a ruling
1367 or stay order is not issued and served on the department within
1368 the 10-day period, the department shall issue the certificate
1369 showing no liens or security interests, except those shown in
1370 the application or thereafter filed, to the original applicant
1371 if there are no liens or security interests shown in the
1372 application and none are thereafter filed, or to the person
1373 indicated as the secured party of record or in the notice of
1374 lien filed by the lienholder whose name appears in the
1375 application as the first lienholder if there are liens shown in

1376 the application or thereafter filed. A duplicate certificate or
1377 corrected certificate must show only such security interest or
1378 interests or lien or liens as were shown in the application and
1379 subsequently filed liens or security interests that may be
1380 outstanding.

1381 (3) ~~Except as provided in s. 328.15(11),~~ The certificate
1382 of title shall be retained by the first lienholder or secured
1383 party of record. The first lienholder or secured party of record
1384 is entitled to retain the certificate until the first lien or
1385 security interest is satisfied.

1386 (4) Notwithstanding any requirements in this section ~~or in~~
1387 ~~s. 328.15~~ indicating that a lien or security interest on a
1388 vessel shall be noted on the face of the Florida certificate of
1389 title, if there are one or more liens, security interests, or
1390 encumbrances on a vessel, the department shall electronically
1391 transmit the lien or security interest to the first lienholder
1392 or secured party and notify the first lienholder or secured
1393 party of any additional liens or security interests. Subsequent
1394 lien or security interest satisfactions shall be electronically
1395 transmitted to the department and must include the name and
1396 address of the person or entity satisfying the lien or security
1397 interest. When electronic transmission of liens or security
1398 interest and lien satisfactions or security interest are used,
1399 the issuance of a certificate of title may be waived until the
1400 last lien or security interest is satisfied and a clear

1401 certificate of title is issued to the owner of the vessel.
1402 (5) The owner of a vessel~~7~~ upon which a lien or security
1403 interest has been filed with the department or noted upon a
1404 certificate of title for a period of 5 years~~7~~ may apply to the
1405 department in writing for such lien or security interest to be
1406 removed from the department files or from the certificate of
1407 title. The application must be accompanied by evidence
1408 satisfactory to the department that the applicant has notified
1409 the lienholder or secured party by certified mail, not less than
1410 20 days before ~~prior to~~ the date of the application, of his or
1411 her intention to apply to the department for removal of the lien
1412 or security interest. Ten days after receipt of the application,
1413 the department may remove the lien or security interest from its
1414 files or from the certificate of title, as the case may be, if
1415 no statement in writing protesting removal of the lien or
1416 security interest is received by the department from the
1417 lienholder or secured party within the 10-day period. However,
1418 if the lienholder or secured party files with the department,
1419 within the 10-day period, a written statement that the lien or
1420 security interest is still outstanding, the department may not
1421 remove the lien or security interest until the lienholder or
1422 secured party presents a satisfaction of lien or satisfaction of
1423 security interest to the department.

1424 Section 21. Subsection (1) of section 328.165, Florida
1425 Statutes, is amended to read:

1426 328.165 Cancellation of certificates.-

1427 (1) If it appears that a certificate of title has been
 1428 improperly issued, the department shall cancel the certificate.
 1429 Upon cancellation of any certificate of title, the department
 1430 shall notify the person to whom the certificate of title was
 1431 issued, and any lienholders or secured parties appearing
 1432 thereon, of the cancellation and shall demand the surrender of
 1433 the certificate of title; however, the cancellation does not
 1434 affect the validity of any lien or security interest noted
 1435 thereon. The holder of the certificate of title shall
 1436 immediately return it to the department. If a certificate of
 1437 registration has been issued to the holder of a certificate of
 1438 title so canceled, the department shall immediately cancel the
 1439 certificate of registration and demand the return of the
 1440 certificate of registration, and the holder of such certificate
 1441 of registration shall immediately return it to the department.

1442 Section 22. Section 328.215, Florida Statutes, is created
 1443 to read:

1444 328.215 Application for transfer of ownership or
 1445 termination of security interest without certificate of title.-

1446 (1) Except as otherwise provided in s. 328.23 or s.
 1447 328.24, if the department receives, unaccompanied by a signed
 1448 certificate of title, an application for a new certificate that
 1449 includes an indication of a transfer of ownership or a
 1450 termination statement, the department may create a new

1451 certificate under this section only if:

1452 (a) All other requirements under ss. 328.01 and 328.09 are
1453 met;

1454 (b) The applicant provides an affidavit stating facts
1455 showing the applicant is entitled to a transfer of ownership or
1456 termination statement;

1457 (c) The applicant provides the department with
1458 satisfactory evidence that notification of the application has
1459 been sent to the owner of record and all persons indicated in
1460 the files of the department as having an interest, including a
1461 security interest, in the vessel; at least 45 days have passed
1462 since the notification was sent; and the department has not
1463 received an objection from any of those persons; and

1464 (d) The applicant submits any other information required
1465 by the department as evidence of the applicant's ownership or
1466 right to terminate the security interest, and the department has
1467 no credible information indicating theft, fraud, or an
1468 undisclosed or unsatisfied security interest, lien, or other
1469 claim to an interest in the vessel.

1470 (2) The department may indicate in a certificate of title
1471 created under subsection (1) that the certificate was created
1472 without submission of a signed certificate or termination
1473 statement. Unless credible information indicating theft, fraud,
1474 or an undisclosed or unsatisfied security interest, lien, or
1475 other claim to an interest in the vessel is delivered to the

1476 department not later than 1 year after creation of the
1477 certificate, on request in a form and manner required by the
1478 department, the department shall remove the indication from the
1479 certificate.

1480 (3) Before the department creates a certificate of title
1481 under subsection (1), the department may require the applicant
1482 to post a reasonable bond or provide an equivalent source of
1483 indemnity or security. The bond, indemnity, or other security
1484 must be in a form required by the department and provide for
1485 indemnification of any owner, purchaser, or other claimant for
1486 any expense, loss, delay, or damage, including reasonable
1487 attorney fees and costs, but not including incidental or
1488 consequential damages, resulting from creation or amendment of
1489 the certificate.

1490 (4) Unless the department receives a claim for indemnity
1491 not later than 1 year after creation of a certificate of title
1492 under subsection (1), on request in a form and manner required
1493 by the department, the department shall release any bond,
1494 indemnity, or other security. The department is not liable to a
1495 person or entity for creating a certificate of title under this
1496 section when the department issues the certificate of title in
1497 good faith based on the information provided by an applicant. An
1498 applicant that submits erroneous or fraudulent information with
1499 the intent to mislead the department into issuing a certificate
1500 of title under this section is subject to the penalties

1501 established in s. 328.045(4) in addition to any other criminal
1502 or civil penalties provided by law.

1503 Section 23. Section 328.22, Florida Statutes, is created
1504 to read:

1505 328.22 Transfer of ownership.—

1506 (1) On voluntary transfer of an ownership interest in a
1507 vessel covered by a certificate of title, the following
1508 requirements apply:

1509 (a) If the certificate is a written certificate of title
1510 and the transferor's interest is noted on the certificate, the
1511 transferor shall promptly sign the certificate and deliver it to
1512 the transferee. If the transferor does not have possession of
1513 the certificate, the person in possession of the certificate has
1514 a duty to facilitate the transferor's compliance with this
1515 paragraph. A secured party does not have a duty to facilitate
1516 the transferor's compliance with this paragraph if the proposed
1517 transfer is prohibited by the security agreement.

1518 (b) If the certificate of title is an electronic
1519 certificate of title, the transferor shall promptly sign by
1520 hand, or electronically if available, and deliver to the
1521 transferee a record evidencing the transfer of ownership to the
1522 transferee.

1523 (c) The transferee has a right enforceable by specific
1524 performance to require the transferor to comply with paragraph
1525 (a) or paragraph (b).

1526 (2) The creation of a certificate of title identifying the
 1527 transferee as owner of record satisfies subsection (1).

1528 (3) A failure to comply with subsection (1) or to apply
 1529 for a new certificate of title does not render a transfer of
 1530 ownership of a vessel ineffective between the parties. Except as
 1531 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
 1532 s. 328.23, a transfer of ownership without compliance with
 1533 subsection (1) is not effective against another person claiming
 1534 an interest in the vessel.

1535 (4) A transferor that complies with subsection (1) is not
 1536 liable as owner of the vessel for an event occurring after the
 1537 transfer, regardless of whether the transferee applies for a new
 1538 certificate of title.

1539 Section 24. Section 328.23, Florida Statutes, is created
 1540 to read:

1541 328.23 Transfer of ownership by secured party's transfer
 1542 statement.—

1543 (1) In this section, "secured party's transfer statement"
 1544 means a record signed by the secured party of record stating:

1545 (a) That there has been a default on an obligation secured
 1546 by the vessel;

1547 (b) That the secured party of record is exercising or has
 1548 exercised post-default remedies with respect to the vessel;

1549 (c) That by reason of the exercise, the secured party of
 1550 record has the right to transfer the ownership interest of an

1551 owner, and the name of the owner;
1552 (d) The name and last known mailing address of the owner
1553 of record and the secured party of record;
1554 (e) The name of the transferee;
1555 (f) Other information required by s. 328.01(2); and
1556 (g) One of the following:
1557 1. The certificate of title is an electronic certificate;
1558 2. The secured party does not have possession of the
1559 written certificate of title created in the name of the owner of
1560 record; or
1561 3. The secured party is delivering the written certificate
1562 of title to the department with the secured party's transfer
1563 statement.
1564 (2) Unless the department rejects a secured party's
1565 transfer statement for a reason stated in s. 328.09(3), not
1566 later than 30 days after delivery to the department of the
1567 statement and payment of fees and taxes payable under the laws
1568 of this state other than this part in connection with the
1569 statement or the acquisition or use of the vessel, the
1570 department shall:
1571 (a) Accept the statement;
1572 (b) Amend the files of the department to reflect the
1573 transfer; and
1574 (c) If the name of the owner whose ownership interest is
1575 being transferred is indicated on the certificate of title:

1576 1. Cancel the certificate even if the certificate has not
 1577 been delivered to the department;

1578 2. Create a new certificate indicating the transferee as
 1579 owner; and

1580 3. Deliver the new certificate or a record evidencing an
 1581 electronic certificate.

1582 (3) An application under subsection (1) or the creation of
 1583 a certificate of title under subsection (2) is not by itself a
 1584 disposition of the vessel and does not by itself relieve the
 1585 secured party of its duties under chapter 679.

1586 Section 25. Section 328.24, Florida Statutes, is created
 1587 to read:

1588 328.24 Transfer by operation of law.-

1589 (1) In this section, "by operation of law" means pursuant
 1590 to a law or judicial order affecting ownership of a vessel:

1591 (a) Because of death, divorce, or other family law
 1592 proceeding, merger, consolidation, dissolution, or bankruptcy;

1593 (b) Through the exercise of the rights of a lien creditor
 1594 or a person having a lien created by statute or rule of law; or

1595 (c) Through other legal process.

1596 (2) A transfer-by-law statement must contain:

1597 (a) The name and last known mailing address of the owner
 1598 of record and the transferee and the other information required
 1599 by s. 328.01;

1600 (b) Documentation sufficient to establish the transferee's

1601 ownership interest or right to acquire the ownership interest;
 1602 (c) A statement that:
 1603 1. The certificate of title is an electronic certificate
 1604 of title;
 1605 2. The transferee does not have possession of the written
 1606 certificate of title created in the name of the owner of record;
 1607 or
 1608 3. The transferee is delivering the written certificate to
 1609 the department with the transfer-by-law statement; and
 1610 (d) Except for a transfer described in paragraph (1)(a),
 1611 evidence that notification of the transfer and the intent to
 1612 file the transfer-by-law statement has been sent to all persons
 1613 indicated in the files of the department as having an interest,
 1614 including a security interest, in the vessel.
 1615 (3) Unless the department rejects a transfer-by-law
 1616 statement for a reason stated in s. 328.09(3) or because the
 1617 statement does not include documentation satisfactory to the
 1618 department as to the transferee's ownership interest or right to
 1619 acquire the ownership interest, not later than 30 days after
 1620 delivery to the department of the statement and payment of fees
 1621 and taxes payable under the law of this state other than this
 1622 part in connection with the statement or with the acquisition or
 1623 use of the vessel, the department shall:
 1624 (a) Accept the statement;
 1625 (b) Amend the files of the department to reflect the

1626 transfer; and

1627 (c) If the name of the owner whose ownership interest is

1628 being transferred is indicated on the certificate of title:

1629 1. Cancel the certificate even if the certificate has not

1630 been delivered to the department;

1631 2. Create a new certificate indicating the transferee as

1632 owner;

1633 3. Indicate on the new certificate any security interest

1634 indicated on the canceled certificate, unless a court order

1635 provides otherwise; and

1636 4. Deliver the new certificate or a record evidencing an

1637 electronic certificate.

1638 (4) This section does not apply to a transfer of an

1639 interest in a vessel by a secured party under part VI of chapter

1640 679.

1641 Section 26. Section 328.25, Florida Statutes, is created

1642 to read:

1643 328.25 Supplemental principles of law and equity.—Unless

1644 displaced by a provision of this part, the principles of law and

1645 equity supplement its provisions.

1646 Section 27. Section 328.41, Florida Statutes, is created

1647 to read:

1648 328.41 Rulemaking.—The department may adopt rules pursuant

1649 to ss. 120.536(1) and 120.54 to implement this part.

1650 Section 28. Section 409.2575, Florida Statutes, is amended

1651 to read:

1652 409.2575 Liens on motor vehicles and vessels.—

1653 (1) The director of the state IV-D program, or the
 1654 director's designee, may cause a lien for unpaid and delinquent
 1655 support to be placed upon motor vehicles, as defined in chapter
 1656 320, and upon vessels, as defined in chapter 327, that are
 1657 registered in the name of an obligor who is delinquent in
 1658 support payments, if the title to the property is held by a
 1659 lienholder, in the manner provided in chapter 319 or, if
 1660 applicable in accordance with s. 328.15(9), chapter 328. Notice
 1661 of lien shall not be mailed unless the delinquency in support
 1662 exceeds \$600.

1663 (2) If the first lienholder fails, neglects, or refuses to
 1664 forward the certificate of title to the appropriate department
 1665 as requested pursuant to s. 319.24 or, if applicable in
 1666 accordance with s. 328.15(9), s. 328.15, the director of the IV-
 1667 D program, or the director's designee, may apply to the circuit
 1668 court for an order to enforce the requirements of s. 319.24 or
 1669 s. 328.15, whichever applies.

1670 Section 29. Subsection (2) of section 705.103, Florida
 1671 Statutes, is amended to read:

1672 705.103 Procedure for abandoned or lost property.—

1673 (2) Whenever a law enforcement officer ascertains that an
 1674 article of lost or abandoned property is present on public
 1675 property and is of such nature that it cannot be easily removed,

1676 | the officer shall cause a notice to be placed upon such article
 1677 | in substantially the following form:
 1678 | NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1679 | PROPERTY. This property, to wit: ...(setting forth brief
 1680 | description)... is unlawfully upon public property known as
 1681 | ...(setting forth brief description of location)... and must be
 1682 | removed within 5 days; otherwise, it will be removed and
 1683 | disposed of pursuant to chapter 705, Florida Statutes. The owner
 1684 | will be liable for the costs of removal, storage, and
 1685 | publication of notice. Dated this: ...(setting forth the date of
 1686 | posting of notice)..., signed: ...(setting forth name, title,
 1687 | address, and telephone number of law enforcement officer)....
 1688 | Such notice shall be not less than 8 inches by 10 inches and
 1689 | shall be sufficiently weatherproof to withstand normal exposure
 1690 | to the elements. In addition to posting, the law enforcement
 1691 | officer shall make a reasonable effort to ascertain the name and
 1692 | address of the owner. If such is reasonably available to the
 1693 | officer, she or he shall mail a copy of such notice to the owner
 1694 | on or before the date of posting. If the property is a motor
 1695 | vehicle as defined in s. 320.01(1) or a vessel as defined in s.
 1696 | 327.02, the law enforcement agency shall contact the Department
 1697 | of Highway Safety and Motor Vehicles in order to determine the
 1698 | name and address of the owner and any person who has filed a
 1699 | lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
 1700 | ~~or s. 328.15(1)~~. On receipt of this information, the law

1701 enforcement agency shall mail a copy of the notice by certified
1702 mail, return receipt requested, to the owner and to the
1703 lienholder, if any, except that a law enforcement officer who
1704 has issued a citation for a violation of s. 823.11 to the owner
1705 of a derelict vessel is not required to mail a copy of the
1706 notice by certified mail, return receipt requested, to the
1707 owner. If, at the end of 5 days after posting the notice and
1708 mailing such notice, if required, the owner or any person
1709 interested in the lost or abandoned article or articles
1710 described has not removed the article or articles from public
1711 property or shown reasonable cause for failure to do so, the
1712 following shall apply:

1713 (a) For abandoned property, the law enforcement agency may
1714 retain any or all of the property for its own use or for use by
1715 the state or unit of local government, trade such property to
1716 another unit of local government or state agency, donate the
1717 property to a charitable organization, sell the property, or
1718 notify the appropriate refuse removal service.

1719 (b) For lost property, the officer shall take custody and
1720 the agency shall retain custody of the property for 90 days. The
1721 agency shall publish notice of the intended disposition of the
1722 property, as provided in this section, during the first 45 days
1723 of this time period.

1724 1. If the agency elects to retain the property for use by
1725 the unit of government, donate the property to a charitable

1726 organization, surrender such property to the finder, sell the
1727 property, or trade the property to another unit of local
1728 government or state agency, notice of such election shall be
1729 given by an advertisement published once a week for 2
1730 consecutive weeks in a newspaper of general circulation in the
1731 county where the property was found if the value of the property
1732 is more than \$100. If the value of the property is \$100 or less,
1733 notice shall be given by posting a description of the property
1734 at the law enforcement agency where the property was turned in.
1735 The notice must be posted for not less than 2 consecutive weeks
1736 in a public place designated by the law enforcement agency. The
1737 notice must describe the property in a manner reasonably
1738 adequate to permit the rightful owner of the property to claim
1739 it.

1740 2. If the agency elects to sell the property, it must do
1741 so at public sale by competitive bidding. Notice of the time and
1742 place of the sale shall be given by an advertisement of the sale
1743 published once a week for 2 consecutive weeks in a newspaper of
1744 general circulation in the county where the sale is to be held.
1745 The notice shall include a statement that the sale shall be
1746 subject to any and all liens. The sale must be held at the
1747 nearest suitable place to that where the lost or abandoned
1748 property is held or stored. The advertisement must include a
1749 description of the goods and the time and place of the sale. The
1750 sale may take place no earlier than 10 days after the final

1751 publication. If there is no newspaper of general circulation in
1752 the county where the sale is to be held, the advertisement shall
1753 be posted at the door of the courthouse and at three other
1754 public places in the county at least 10 days prior to sale.
1755 Notice of the agency's intended disposition shall describe the
1756 property in a manner reasonably adequate to permit the rightful
1757 owner of the property to identify it.

1758 Section 30. Paragraph (c) of subsection (2) of section
1759 721.08, Florida Statutes, is amended to read:

1760 721.08 Escrow accounts; nondisturbance instruments;
1761 alternate security arrangements; transfer of legal title.-

1762 (2) One hundred percent of all funds or other property
1763 which is received from or on behalf of purchasers of the
1764 timeshare plan or timeshare interest prior to the occurrence of
1765 events required in this subsection shall be deposited pursuant
1766 to an escrow agreement approved by the division. The funds or
1767 other property may be released from escrow only as follows:

1768 (c) Compliance with conditions.-

1769 1. Timeshare licenses.-If the timeshare plan is one in
1770 which timeshare licenses are to be sold and no cancellation or
1771 default has occurred, the escrow agent may release the escrowed
1772 funds or other property to or on the order of the developer upon
1773 presentation of:

1774 a. An affidavit by the developer that all of the following
1775 conditions have been met:

1776 (I) Expiration of the cancellation period.
 1777 (II) Completion of construction.
 1778 (III) Closing.
 1779 (IV) Either:
 1780 (A) Execution, delivery, and recordation by each
 1781 interestholder of the nondisturbance and notice to creditors
 1782 instrument, as described in this section; or
 1783 (B) Transfer by the developer of legal title to the
 1784 subject accommodations and facilities, or all use rights
 1785 therein, into a trust satisfying the requirements of
 1786 subparagraph 4. and the execution, delivery, and recordation by
 1787 each other interestholder of the nondisturbance and notice to
 1788 creditors instrument, as described in this section.
 1789 b. A certified copy of each recorded nondisturbance and
 1790 notice to creditors instrument.
 1791 c. One of the following:
 1792 (I) A copy of a memorandum of agreement, as defined in s.
 1793 721.05, together with satisfactory evidence that the original
 1794 memorandum of agreement has been irretrievably delivered for
 1795 recording to the appropriate official responsible for
 1796 maintaining the public records in the county in which the
 1797 subject accommodations and facilities are located. The original
 1798 memorandum of agreement must be recorded within 180 days after
 1799 the date on which the purchaser executed her or his purchase
 1800 agreement.

1801 (II) A notice delivered for recording to the appropriate
 1802 official responsible for maintaining the public records in each
 1803 county in which the subject accommodations and facilities are
 1804 located notifying all persons of the identity of an independent
 1805 escrow agent or trustee satisfying the requirements of
 1806 subparagraph 4. that shall maintain separate books and records,
 1807 in accordance with good accounting practices, for the timeshare
 1808 plan in which timeshare licenses are to be sold. The books and
 1809 records shall indicate each accommodation and facility that is
 1810 subject to such a timeshare plan and each purchaser of a
 1811 timeshare license in the timeshare plan.

1812 2. Timeshare estates.—If the timeshare plan is one in
 1813 which timeshare estates are to be sold and no cancellation or
 1814 default has occurred, the escrow agent may release the escrowed
 1815 funds or other property to or on the order of the developer upon
 1816 presentation of:

1817 a. An affidavit by the developer that all of the following
 1818 conditions have been met:

1819 (I) Expiration of the cancellation period.

1820 (II) Completion of construction.

1821 (III) Closing.

1822 b. If the timeshare estate is sold by agreement for deed,
 1823 a certified copy of the recorded nondisturbance and notice to
 1824 creditors instrument, as described in this section.

1825 c. Evidence that each accommodation and facility:

1826 (I) Is free and clear of the claims of any
 1827 interestholders, other than the claims of interestholders that,
 1828 through a recorded instrument, are irrevocably made subject to
 1829 the timeshare instrument and the use rights of purchasers made
 1830 available through the timeshare instrument;

1831 (II) Is the subject of a recorded nondisturbance and
 1832 notice to creditors instrument that complies with subsection (3)
 1833 and s. 721.17; or

1834 (III) Has been transferred into a trust satisfying the
 1835 requirements of subparagraph 4.

1836 d. Evidence that the timeshare estate:

1837 (I) Is free and clear of the claims of any
 1838 interestholders, other than the claims of interestholders that,
 1839 through a recorded instrument, are irrevocably made subject to
 1840 the timeshare instrument and the use rights of purchasers made
 1841 available through the timeshare instrument; or

1842 (II) Is the subject of a recorded nondisturbance and
 1843 notice to creditors instrument that complies with subsection (3)
 1844 and s. 721.17.

1845 3. Personal property timeshare interests.—If the timeshare
 1846 plan is one in which personal property timeshare interests are
 1847 to be sold and no cancellation or default has occurred, the
 1848 escrow agent may release the escrowed funds or other property to
 1849 or on the order of the developer upon presentation of:

1850 a. An affidavit by the developer that all of the following

1851 conditions have been met:

1852 (I) Expiration of the cancellation period.

1853 (II) Completion of construction.

1854 (III) Closing.

1855 b. If the personal property timeshare interest is sold by

1856 agreement for transfer, evidence that the agreement for transfer

1857 complies fully with s. 721.06 and this section.

1858 c. Evidence that one of the following has occurred:

1859 (I) Transfer by the owner of the underlying personal

1860 property of legal title to the subject accommodations and

1861 facilities or all use rights therein into a trust satisfying the

1862 requirements of subparagraph 4.; or

1863 (II) Transfer by the owner of the underlying personal

1864 property of legal title to the subject accommodations and

1865 facilities or all use rights therein into an owners' association

1866 satisfying the requirements of subparagraph 5.

1867 d. Evidence of compliance with the provisions of

1868 subparagraph 6., if required.

1869 e. If a personal property timeshare plan is created with

1870 respect to accommodations and facilities that are located on or

1871 in an oceangoing vessel, including a "documented vessel" or a

1872 "foreign vessel," as defined and governed by 46 U.S.C. chapter

1873 301:

1874 (I) In making the transfer required in sub-subparagraph

1875 c., the developer shall use as its transfer instrument a

1876 document that establishes and protects the continuance of the
1877 use rights in the subject accommodations and facilities in a
1878 manner that is enforceable by the trust or owners' association.

1879 (II) The transfer instrument shall comply fully with the
1880 provisions of this chapter, shall be part of the timeshare
1881 instrument, and shall contain specific provisions that:

1882 (A) Prohibit the vessel owner, the developer, any manager
1883 or operator of the vessel, the owners' association or the
1884 trustee, the managing entity, or any other person from incurring
1885 any liens against the vessel except for liens that are required
1886 for the operation and upkeep of the vessel, including liens for
1887 fuel expenditures, repairs, crews' wages, and salvage, and
1888 except as provided in sub-sub-subparagraphs 4.b.(III) and
1889 5.b.(III). All expenses, fees, and taxes properly incurred in
1890 connection with the creation, satisfaction, and discharge of any
1891 such permitted lien, or a prorated portion thereof if less than
1892 all of the accommodations on the vessel are subject to the
1893 timeshare plan, shall be common expenses of the timeshare plan.

1894 (B) Grant a lien against the vessel in favor of the
1895 owners' association or trustee to secure the full and faithful
1896 performance of the vessel owner and developer of all of their
1897 obligations to the purchasers.

1898 (C) Establish governing law in a jurisdiction that
1899 recognizes and will enforce the timeshare instrument and the
1900 laws of the jurisdiction of registry of the vessel.

1901 (D) Require that a description of the use rights of
1902 purchasers be posted and displayed on the vessel in a manner
1903 that will give notice of such rights to any party examining the
1904 vessel. This notice must identify the owners' association or
1905 trustee and include a statement disclosing the limitation on
1906 incurring liens against the vessel described in sub-sub-sub-
1907 subparagraph (A).

1908 (E) Include the nondisturbance and notice to creditors
1909 instrument for the vessel owner and any other interestholders.

1910 (F) The owners' association created under subparagraph 5.
1911 or trustee created under subparagraph 4. shall have access to
1912 any certificates of classification in accordance with the
1913 timeshare instrument.

1914 (III) If the vessel is a foreign vessel, the vessel must
1915 be registered in a jurisdiction that permits a filing evidencing
1916 the use rights of purchasers in the subject accommodations and
1917 facilities, offers protection for such use rights against
1918 unfiled and inferior claims, and recognizes the document or
1919 instrument creating such use rights as a lien against the
1920 vessel.

1921 (IV) In addition to the disclosures required by s.
1922 721.07(5), the public offering statement and purchase contract
1923 must contain a disclosure in conspicuous type in substantially
1924 the following form:

1925 The laws of the State of Florida govern the offering of this

1926 | timeshare plan in this state. There are inherent risks in
 1927 | purchasing a timeshare interest in this timeshare plan because
 1928 | the accommodations and facilities of the timeshare plan are
 1929 | located on a vessel that will sail into international waters and
 1930 | into waters governed by many different jurisdictions. Therefore,
 1931 | the laws of the State of Florida cannot fully protect your
 1932 | purchase of an interest in this timeshare plan. Specifically,
 1933 | management and operational issues may need to be addressed in
 1934 | the jurisdiction in which the vessel is registered, which is
 1935 | (insert jurisdiction in which vessel is registered). Concerns of
 1936 | purchasers may be sent to (insert name of applicable regulatory
 1937 | agency and address).

1938 | 4. Trust.—

1939 | a. If the subject accommodations or facilities, or all use
 1940 | rights therein, are to be transferred into a trust in order to
 1941 | comply with this paragraph, such transfer shall take place
 1942 | pursuant to this subparagraph. If the accommodations or
 1943 | facilities included in such transfer are subject to a lease, the
 1944 | unexpired term of the lease must be disclosed as the term of the
 1945 | timeshare plan pursuant to s. 721.07(5)(f)4.

1946 | b. Prior to the transfer of the subject accommodations and
 1947 | facilities, or all use rights therein, to a trust, any lien or
 1948 | other encumbrance against such accommodations and facilities, or
 1949 | use rights therein, shall be made subject to a nondisturbance
 1950 | and notice to creditors instrument pursuant to subsection (3).

1951 No transfer pursuant to this subparagraph shall become effective
 1952 until the trustee accepts such transfer and the responsibilities
 1953 set forth herein. A trust established pursuant to this
 1954 subparagraph shall comply with the following provisions:

1955 (I) The trustee shall be an individual or a business
 1956 entity authorized and qualified to conduct trust business in
 1957 this state. Any corporation authorized to do business in this
 1958 state may act as trustee in connection with a timeshare plan
 1959 pursuant to this chapter. The trustee must be independent from
 1960 any developer or managing entity of the timeshare plan or any
 1961 interestholder of any accommodation or facility of such plan.

1962 (II) The trust shall be irrevocable so long as any
 1963 purchaser has a right to occupy any portion of the timeshare
 1964 property pursuant to the timeshare plan.

1965 (III) The trustee shall not convey, hypothecate, mortgage,
 1966 assign, lease, or otherwise transfer or encumber in any fashion
 1967 any interest in or portion of the timeshare property with
 1968 respect to which any purchaser has a right of use or occupancy
 1969 unless the timeshare plan is terminated pursuant to the
 1970 timeshare instrument, or such conveyance, hypothecation,
 1971 mortgage, assignment, lease, transfer, or encumbrance is
 1972 approved by a vote of two-thirds of all voting interests of the
 1973 timeshare plan. Subject to s. 721.552, a vote of the voting
 1974 interests of the timeshare plan is not required for substitution
 1975 or automatic deletion of accommodations or facilities.

1976 (IV) All purchasers of the timeshare plan or the owners'
1977 association of the timeshare plan shall be the express
1978 beneficiaries of the trust. The trustee shall act as a fiduciary
1979 to the beneficiaries of the trust. The personal liability of the
1980 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
1981 and 736.1015. The agreement establishing the trust shall set
1982 forth the duties of the trustee. The trustee shall be required
1983 to furnish promptly to the division upon request a copy of the
1984 complete list of the names and addresses of the owners in the
1985 timeshare plan and a copy of any other books and records of the
1986 timeshare plan required to be maintained pursuant to s. 721.13
1987 that are in the possession, custody, or control of the trustee.
1988 All expenses reasonably incurred by the trustee in the
1989 performance of its duties, together with any reasonable
1990 compensation of the trustee, shall be common expenses of the
1991 timeshare plan.

1992 (V) The trustee shall not resign upon less than 90 days'
1993 prior written notice to the managing entity and the division. No
1994 resignation shall become effective until a substitute trustee,
1995 approved by the division, is appointed by the managing entity
1996 and accepts the appointment.

1997 (VI) The documents establishing the trust arrangement
1998 shall constitute a part of the timeshare instrument.

1999 (VII) For trusts holding property in a timeshare plan
2000 located outside this state, the trust and trustee holding such

2001 | property shall be deemed in compliance with the requirements of
2002 | this subparagraph if such trust and trustee are authorized and
2003 | qualified to conduct trust business under the laws of such
2004 | jurisdiction and the agreement or law governing such trust
2005 | arrangement provides substantially similar protections for the
2006 | purchaser as are required in this subparagraph for trusts
2007 | holding property in a timeshare plan in this state.

2008 | (VIII) The trustee shall have appointed a registered agent
2009 | in this state for service of process. In the event such a
2010 | registered agent is not appointed, service of process may be
2011 | served pursuant to s. 721.265.

2012 | 5. Owners' association.—

2013 | a. If the subject accommodations or facilities, or all use
2014 | rights therein, are to be transferred into an owners'
2015 | association in order to comply with this paragraph, such
2016 | transfer shall take place pursuant to this subparagraph.

2017 | b. Before the transfer of the subject accommodations and
2018 | facilities, or all use rights therein, to an owners'
2019 | association, any lien or other encumbrance against such
2020 | accommodations and facilities, or use rights therein, shall be
2021 | made subject to a nondisturbance and notice to creditors
2022 | instrument pursuant to subsection (3). No transfer pursuant to
2023 | this subparagraph shall become effective until the owners'
2024 | association accepts such transfer and the responsibilities set
2025 | forth herein. An owners' association established pursuant to

2026 | this subparagraph shall comply with the following provisions:

2027 | (I) The owners' association shall be a business entity
 2028 | authorized and qualified to conduct business in this state.
 2029 | Control of the board of directors of the owners' association
 2030 | must be independent from any developer or managing entity of the
 2031 | timeshare plan or any interestholder.

2032 | (II) The bylaws of the owners' association shall provide
 2033 | that the corporation may not be voluntarily dissolved without
 2034 | the unanimous vote of all owners of personal property timeshare
 2035 | interests so long as any purchaser has a right to occupy any
 2036 | portion of the timeshare property pursuant to the timeshare
 2037 | plan.

2038 | (III) The owners' association shall not convey,
 2039 | hypothecate, mortgage, assign, lease, or otherwise transfer or
 2040 | encumber in any fashion any interest in or portion of the
 2041 | timeshare property with respect to which any purchaser has a
 2042 | right of use or occupancy, unless the timeshare plan is
 2043 | terminated pursuant to the timeshare instrument, or unless such
 2044 | conveyance, hypothecation, mortgage, assignment, lease,
 2045 | transfer, or encumbrance is approved by a vote of two-thirds of
 2046 | all voting interests of the association and such decision is
 2047 | declared by a court of competent jurisdiction to be in the best
 2048 | interests of the purchasers of the timeshare plan. The owners'
 2049 | association shall notify the division in writing within 10 days
 2050 | after receiving notice of the filing of any petition relating to

2051 obtaining such a court order. The division shall have standing
2052 to advise the court of the division's interpretation of the
2053 statute as it relates to the petition.

2054 (IV) All purchasers of the timeshare plan shall be members
2055 of the owners' association and shall be entitled to vote on
2056 matters requiring a vote of the owners' association as provided
2057 in this chapter or the timeshare instrument. The owners'
2058 association shall act as a fiduciary to the purchasers of the
2059 timeshare plan. The articles of incorporation establishing the
2060 owners' association shall set forth the duties of the owners'
2061 association. All expenses reasonably incurred by the owners'
2062 association in the performance of its duties, together with any
2063 reasonable compensation of the officers or directors of the
2064 owners' association, shall be common expenses of the timeshare
2065 plan.

2066 (V) The documents establishing the owners' association
2067 shall constitute a part of the timeshare instrument.

2068 (VI) For owners' associations holding property in a
2069 timeshare plan located outside this state, the owners'
2070 association holding such property shall be deemed in compliance
2071 with the requirements of this subparagraph if such owners'
2072 association is authorized and qualified to conduct owners'
2073 association business under the laws of such jurisdiction and the
2074 agreement or law governing such arrangement provides
2075 substantially similar protections for the purchaser as are

2076 required in this subparagraph for owners' associations holding
 2077 property in a timeshare plan in this state.

2078 (VII) The owners' association shall have appointed a
 2079 registered agent in this state for service of process. In the
 2080 event such a registered agent cannot be located, service of
 2081 process may be made pursuant to s. 721.265.

2082 6. Personal property subject to certificate of title.—If
 2083 any personal property that is an accommodation or facility of a
 2084 timeshare plan is subject to a certificate of title in this
 2085 state pursuant to chapter 319 or chapter 328, the following
 2086 notation must be made on such certificate of title pursuant to
 2087 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2088 The further transfer or encumbrance of the property subject to
 2089 this certificate of title, or any lien or encumbrance thereon,
 2090 is subject to the requirements of section 721.17, Florida
 2091 Statutes, and the transferee or lienor agrees to be bound by all
 2092 of the obligations set forth therein.

2093 7. If the developer has previously provided a certified
 2094 copy of any document required by this paragraph, she or he may
 2095 for all subsequent disbursements substitute a true and correct
 2096 copy of the certified copy, provided no changes to the document
 2097 have been made or are required to be made.

2098 8. In the event that use rights relating to an
 2099 accommodation or facility are transferred into a trust pursuant
 2100 to subparagraph 4. or into an owners' association pursuant to

2101 subparagraph 5., all other interestholders, including the owner
2102 of the underlying fee or underlying personal property, must
2103 execute a nondisturbance and notice to creditors instrument
2104 pursuant to subsection (3).

2105 Section 31. (1) The rights, duties, and interests flowing
2106 from a transaction, certificate of title, or record relating to
2107 a vessel which was validly entered into or created before the
2108 effective date of this act and would be subject to this act if
2109 it had been entered into or created on or after the effective
2110 date of this act remain valid on and after the effective date of
2111 this act.

2112 (2) This act does not affect an action or proceeding
2113 commenced before the effective date of this act.

2114 (3) Except as otherwise provided in subsection (4), a
2115 security interest that is enforceable immediately before the
2116 effective date of this act and would have priority over the
2117 rights of a person who becomes a lien creditor at that time is a
2118 perfected security interest under this act.

2119 (4) A security interest perfected immediately before the
2120 effective date of this act remains perfected until the earlier
2121 of:

2122 (a) The time perfection would have ceased under the law
2123 under which the security interest was perfected; or

2124 (b) Three years after the effective date of this act.

2125 (5) This act does not affect the priority of a security

CS/CS/CS/HB 475

2019

2126 | interest in a vessel if immediately before the effective date of
2127 | this act the security interest is enforceable and perfected, and
2128 | that priority is established.

2129 | Section 32. Subject to section 31, this act applies to any
2130 | transaction, certificate of title, or record relating to a
2131 | vessel, even if the transaction, certificate of title, or record
2132 | was entered into or created before the effective date of this
2133 | act.

2134 | Section 33. This act shall take effect July 1, 2023.